

1
2 BILL NO. G-77-04-

3 *19 (as amended)*

4 GENERAL ORDINANCE NO. G- 27-77

5 AN ORDINANCE providing for the
6 establishment of a Cable
7 Communications System in the
8 City of Fort Wayne.

9 WHEREAS, the City of Fort Wayne does not have a
10 Cable Communications System and it appears desirable to
11 provide such a facility for the use and benefit of the City
12 of Fort Wayne; and

13 WHEREAS, the Federal Communications Commission of
14 the United States Government has provided that municipal
15 corporations shall establish and control such facilities.

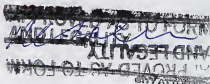
16 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
17 OF THE CITY OF FORT WAYNE:

18 SECTION 1. The Council of the City of Fort Wayne
19 does hereby propose to establish a Cable Communications
20 System in the City of Fort Wayne.

21 SECTION 2. That the Council of the City of Fort
22 Wayne does hereby approve, adopt and ratify the Fort Wayne
23 Cable Communication System Specifications, a copy of which
24 is attached hereto and made a part hereof by reference in
25 its entirety.

26 SECTION 3. That this ordinance shall take effect
27 from and after its passage and approval by the Mayor.

28 *William T. Linga*
29 Councilman



Read the first time in full and on motion by Hunga, seconded by Hunter, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 4-12-77

Charles W. Hutchinson
CITY CLERK

Read the third time in full and on motion by Hunga, seconded by Hunter, and duly adopted, placed on its passage.

PASSED (~~TEST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>	<u>0</u>			
BURNS	<u>X</u>				
HINGA	<u>X</u>				
HUNTER	<u>X</u>				
MOSES	<u>X</u>				
NUCKOLS	<u>X</u>				
SCHMIDT, D.	<u>X</u>				
SCHMIDT, V.	<u>X</u>				
STIER	<u>X</u>				
TALARICO	<u>X</u>				

DATE: 7-26-77

Charles W. Hutchinson
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ (GENERAL) (ANNEXATION) ~~(SPECIAL)~~ ~~(APPROPRIATION)~~

ORDINANCE (RESOLUTION) No. 2-27-77 on the 26 day of July, 1976.
ATTEST: (SEAL)

Charles W. Hutchinson
CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27 day of July, 1976, at the hour of 3:00 o'clock P. M., E.S.T.

Charles W. Hutchinson
CITY CLERK

Approved and signed by me this 3rd day of August, 1976, at the hour of 9:40 o'clock P. M., E.S.T.

Rafael E. Sanchez
MAYOR

Bill No. G-77-04-19

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
providing for the establishment of a Cable Communications System in
the City of Fort Wayne As Amended

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do ^(as amended) PASS.

WILLIAM T. HINGA - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

PAUL M. BURNS

FREDRICK HUNTER

John Nichols
DATE 7-26-77 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

William T. Hinga
James S. Stier
Vivian G. Schmidt
Paul M. Burns
Fredrick L. Hunter
Samuel J. Talanca
Ed Schmidt
Wm. T. R.

1
2 BILL NO. G-77-04-19 (AS AMENDED)

3 GENERAL ORDINANCE NO. G-27-77

4 AN ORDINANCE providing for the
5 establishment of a Cable
6 Communications System in the
City of Fort Wayne.

7 WHEREAS, the City of Fort Wayne does not have a
8 Cable Communications System and it appears desirable to
9 provide such a facility for the use and benefit of the City of
10 Fort Wayne; and

11 WHEREAS, the Federal Communications Commission of
12 the United States Government has provided that municipal
13 corporations shall establish and control such facilities.

14 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
15 THE CITY OF FORT WAYNE:

16 SECTION 1. The Council of the City of Fort Wayne
17 does hereby propose to establish a Cable Communications
18 System in the City of Fort Wayne granting a non-exclusive
19 franchise to construct and operate such a system.

20 SECTION 2. That the Council of the City of Fort
21 Wayne does hereby approve, adopt and ratify the Fort Wayne
22 Cable Communication System Specifications, a copy of which is
23 attached hereto and made a part hereof by reference in its
24 entirety.

25 SECTION 3. That this ordinance shall take effect
26 from and after its passage and approval by the Mayor.


27
28 *William T. Hingua*
29 Councilman
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AMENDMENT CERTIFICATION

I, Charles W. Westerman, duly elected City Clerk of Fort Wayne, Indiana, and Clerk of the Common Council of the City of Fort Wayne, Indiana, do hereby certify that on July 26, 1977, in Regular Session of the Common Council Bill No. G-77-04-19 (AS AMENDED), and Ordinance No. G-27-77 was legally amended by the Common Council through a motion made by Hinga, Councilman, and seconded by Hunter, Councilman. Said Amendment was voted to amend Ordinance No. G-27-77 by a vote of:

Ayes: (9) Nine
Total:
Talarico, Burns, Hinga, Hunter, Moses, Nuckols, D. Schmidt, V. Schmidt, Stier,
Nays:
Total:

Amended and attested on
this date 7-26-77


Charles W. Westerman
Clerk of the City of Fort Wayne
& Clerk of the Common Council

The attached amendments to Bill No. G-77-04-19 (as amended) were adopted in Committee, and voted and adopted on July 26, 1977, in Regular Session of the Common Council of Fort Wayne, Indiana.

Page 4, II. (j) expand definition as indicated.

Page 5, II. Add sub-paragraph (o).

Page 5, III. A. Substitute the word "streets" for "public ways."

9
Page 8, III. D. (9) (c) Substitute "residential dwelling units" for "homes"
and expand as indicated.

10
Page 9, III. D. (9) (d) Delete second sentence of this sub-paragraph.

Page 10, Line 5 by adding -- or fails to comply with commitments made in the
franchise application.

13
Page 12, IV. D. Amend as indicated.

14
Page 12, IV F. Amend as indicated.

14
Page 12, IV. G. Amend as indicated.

15
Page 14, V.A. Add sub-paragraph (3)

16
Page 15, V.B. Add sub-paragraph (6)

18
Page 17, V.E. (1) Amend as indicated.

18
Page 17, V.D. Add Sub-paragraph (4)

19
Page 18, V.F. Delete F. and preletter G., H. and I.

20
Page 19, V. New G. (2) Amend as indicated.

Page 20, V. New H. Amend as indicated.

Page 23, VI. C. Delete all after word "television."

26
Page 24, VII. B. (1) Change to "updated quarterly."

26
Page 25, VII. B. (2) Change 1% to 5%

Page 25, VII. B. (4) Change "each" to "The"

26
Page 25, VII. C. Change as indicated.

Page 28 - Line 16 by adding -- to comply with Federal Communications Commission's
or other higher regulatory agencies' rules and regulations

33
Page 22, VII. M. Add as indicated to the last sentence.

34 35
Pages 22 and 24, VII. O. Amend as indicated.

38
Page 27, VII. R. (1) (c) Substitute "system" for "network."

39
Page 28, VIII. A. (1) Substitute "receipts" for "revenue."

39
Page 28, VIII. B. Add sentence indicated.

40 41
Pages ~~39~~ and ~~40~~, Delete paragraphs E., F., G., J., and K. Substitute paragraphs indicated.

Page 41 -- Line 8 -- Striking out --- "the Board of Works."

43
Page ~~42~~, X. G. Delete everything after the word "identified."

46
Page ~~45~~, X. A. (2) Delete this paragraph and renumber those following.

48 49
Pages ~~47~~ and ~~48~~, XI. C. Delete points. Change sentence after criteria as indicated.

50
Page ~~49~~ XII. A. Amend as indicated.

Page 53 APPLICATION FORMAT - Substitute complete new Section XIV.

Page 79 Adding Two (2) Columns - Date construction started and Date construction completed.

FORT WAYNE CABLE COMMUNICATIONS SYSTEM

SPECIFICATIONS

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CABLE COMMUNICATIONS SYSTEM FOR FORT WAYNE, INDIANA

I. PURPOSE OF THE ORDINANCE AND NATURE OF THE GRANT.

A. An ordinance establishing the selection procedure for the granting of a non-exclusive franchise to construct, operate, and maintain a Cable Communications System in the public ways of the City of Fort Wayne; and providing for the specifications, procedures, standards for the same and providing for the regulations of said system; and providing for the payment to the City for the privilege of said franchise.

B. It is the purpose and intent of this ordinance to provide for the City of Fort Wayne a Cable Communications System which will serve present and future needs of government, public institutions, commercial enterprises, lawful public and private organizations, and the citizens and general public of Fort Wayne. Said system in its establishment, construction, operation, maintenance, and regulation shall be subject to and in compliance with all pertinent laws, rules, regulations, orders, and policies of the Federal Communications Commission and the State of Indiana.

C. Recognizing the fluid state of the development of communications technology and related arts and sciences, it is

further the intent of the City of Fort Wayne to encourage experimentation in the development of uses, services, programming, and techniques, provided, however, that all such experiments and innovations shall be subject to the Federal Communications Commission Rules and Regulations and all other laws, ordinances and standards of ethical conduct for the industry.

II. DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

(a) "City" shall mean the City of Fort Wayne, Allen County, Indiana, a municipal corporation of the State of Indiana, in its present incorporated form or any later reorganized, consolidated, enlarged or reincorporated form.

(b) "Common Council" shall mean the legislative body of the City of Fort Wayne, Indiana or any future board constituting the legislative body of the City.

(c) "Converter" means an electronic device which converts voltages or signals on one frequency to voltages or signals on another frequency.

(d) "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area of the City. Any such authorization, in whatever form granted, shall not be deemed to include any license or permit required for the privilege of transacting and carrying on a business within the City.

(e) "Franchisee" shall mean the person, firm or corporation granted a franchise under this ordinance, and the lawful successor, transferee or assignee of said person, firm or corporation.

(f) "Street" shall mean the surface, the air space above the surface and the area below the surface of the right of way of any public street, any public right of way or public place, including public utility easements.

(g) "Subscriber or User" shall mean any person or entity receiving for any purpose any service of the Franchisee's Cable Communication System including, but not limited to, the conventional cable television system service of retransmission of television broadcast signals, radio signals, Franchisee's original cable-casting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television, and police, fire, similar public service communication.

(h) "Cable Communications System" for the purpose of this ordinance, is a term describing the system employing conductors, equipment or facilities, designed, constructed or used for the purpose of:

- (1) Collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
- (2) Transmitting original cable-cast programming not received through television broadcast signals;
- (3) Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers;
- (4) Transmitting and receiving all of the signals: digital, voice, and audio/visual;

Provided, however, that any of the services permitted hereunder to be performed, as described above shall be those performed by the

Franchisee for subscribers, as herein defined, located within the City limits of Fort Wayne, in the operation of a Cable Communications System franchised by the City and not otherwise.

(i) "Gross Receipts" as used in the following categories, shall mean any and all compensation, in whatever form, grant subsidy, exchange, or otherwise, directly or indirectly received by a Franchisee, not including any taxes or services furnished by the Franchisee imposed directly on any subscriber or used by a City, county, state or other governmental unit, and collected by the Franchisee for such entity.

(j) "Gross Subscriber Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the Franchisee from subscribers in payment of the basic service of the cable television system in the transmission of broadcast television, radio signal and original cable cast programming of the Franchisee, *including installation fees and disconnect and re-connect fees.*

(k) "Gross Auxiliary Service Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the Franchisee from subscribers or users in payment of the receipt of signals other than broadcast television, radio or original cable cast programming of the Franchisee, whether for "pay television", "facsimile" transmission, "return" or "subscriber response communication", and whether or not transmitted encoded or processed to permit reception by only selected subscribers.

(l) "Gross Annual Lease Receipts" shall mean any fees or income received by the Franchisee for the lease or rental, and compensation for any service connected herewith, such as studio and equipment rental and production costs of any channel permitted or designated by the Federal Communications Commission to be so leased or rented.

(m) "Service, Basic and Auxiliary"

- (1) "Basic service" means the simultaneous delivery by the Franchisee to television receivers (or any suitable type of audio-video indication receivers), of all subscribers and to all locations in the City of all signals of over-the-air television broadcasters required by the Federal Communications Commission to be carried by a cable television system as

defined by the Federal Communications Commission; the channels designated for special purposes by the City Council; Educational Channels, Public Access Channels; Leased Channels; and additional service at the option of the Franchisee; however, pay or subscription television as defined by the Federal Communications Commission shall not be considered part of the basic service.

- (2) "Auxiliary service" means any communication service other than basic service, provided over its system by the Franchisee directly or as a carrier for its subsidiaries, affiliates or any other person engaged in communications services including, by way of example but not limited to, burglar alarms, data or other electronic intelligence transmission, facsimile reproduction, meter reading, and home shopping.

(n) "Two Way Capability" means the subscriber or any other location shall have the capability to choose whether or not to respond immediately, or by sequential delay utilizing any type of terminal equipment whatever, by push button code, dial code, meter, voice, video signal, or by any other means, including but not limited to any type of electronic, audio and video, electrical or mechanically produced signal, display and/or interrogation.

(o) "Residential Dwelling Unit" means any unit with a separate mailing address used for permanent-type residence (as opposed to transitory, commercial, trade, or professional units).

III. LENGTH, TERMINATION AND TRANSFER OF FRANCHISE

A. The successful applicant as determined by the procedure established herein shall be granted a franchise by the City of Fort Wayne. Said franchise shall be non-exclusive and shall convey the right to construct, operate, and maintain a Cable Communications System within the streets of the City of Fort Wayne for a period of fifteen (15) years from the effective date of the granting ordinance. The granting of said franchise shall be approved by Common Council by the adoption of an ordinance incorporating this ordinance as a part of the franchise.

B. Franchisee is obligated to obtain pole space and other facilities from the City, utilities, and other lawful users of the public ways at its own expense and cost.

C. Upon the termination of this original fifteen-year grant period the Franchisee may renew its franchise for an additional period, subject to Board of Works approval and not inconsistent with the Federal Communications Commission Rules and Regulations and subject to approval by the Common Council. The existing Franchisee at the time this option becomes renewable will have priority over all other applicants, provided it can show that the system has been operated in the public interest.

D. Termination.

(1) The City may terminate any franchise granted pursuant to the provisions of this ordinance in the event of the willful failure, refusal or neglect by the Franchisee to do or comply with any material requirements or limitation contained in this ordinance, or any material rule or regulation of the Common Council validly adopted pursuant to this ordinance.

(2) The Mayor or the Board of Public Works may make a written demand that the Franchisee do or comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal, or neglect of the Franchisee continues for a period of thirty days following such written demand without

written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Mayor or the Board of Public Works may place request for termination of the Franchise upon the next regular Common Council meeting agenda. The Mayor or the Board of Public Works shall cause to be served upon such Franchisee at least ten (10) days prior to the date of such Common Council meeting, a written notice of the intent to request such termination and the time and place of the meeting, notice of which shall be published by the City Clerk at least ten (10) days before such meeting in a newspaper of general circulation within the City.

(3) The Common Council shall consider the request of the Mayor or the Board of Public Works and shall hear any person interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the Franchisee was with just cause.

(4) If such failure, refusal or neglect by the Franchisee was with just cause, the Common Council shall direct the Franchisee to comply within such time and manner and upon such terms and conditions as are reasonable.

(5) If the Council shall determine such failure, refusal or neglect by the Franchisee was without just cause, then the City Council may, by resolution, declare that the franchise of such Franchisee shall be terminated and forfeited unless there be compliance by the Franchisee within such period as the City Council may fix.

(6) Termination and forfeiture of any franchise shall in no way affect the rights of the City under the franchise or any provision of law.

(7) In the event of the termination of any franchise granted hereunder, and until such time as the Company transfers to the City or to a new grantee possession and title to all assets, real and personal, related to its cable television system, the Company shall, as trustee for its successor in interest, continue to operate the cable television system under the terms and conditions of this franchise and to provide the regular subscriber service and any and all of the services that may be provided at that time. During such interim period, the Company shall not make any material, administrative or operational change that would tend to (1) degrade the quality of service to the subscribers, (2) decrease income, or (3) materially increase expenses without the express permission, in writing, of the City or its assignee.

(8) For its management services during this period of trusteeship, the Company shall be entitled to receive as compensation, the net profit, generated during the period between the date the Company received written notice from the City of its intent to purchase the cable television system or the expiration date of the franchise, whichever is earlier, and the payment of the purchase price. Such management services shall not be continued without the Company's consent for more than twelve (12) months.

(9) In addition to all other rights and powers pertaining to the City by virtue of this ordinance or otherwise, the City reserves the right to terminate the franchise and all rights and privileges of the Franchisee hereunder in the event that the Franchisee:

- (a) Becomes insolvent; unable or unwilling to pay its debts, or it is adjudged a bankrupt; or
- (b) Attempts to evade any of the provisions of this ordinance or practices any fraud or deceit upon the City; or
- (c) Fails to have the service available to NINETY (90%) PERCENT of all the *residential dwelling units* in all areas of the City *not already passed by an existing cable television system*, where there are at least fifty (50) homes per line mile within five (5) years after receipt of authorization from all required governmental agencies and acceptable pole attachment agreements have been obtained by Franchisee, but the franchise shall terminate if such authorization is not obtained within eighteen (18) months after the passage of this ordinance, but it is further provided that this period of eighteen months may be extended by the City if the Franchisee is diligently

pursuing such authorization and determination and delay is not caused by any fault of the Franchisee or results from strikes, natural disaster, or other occurrences over which the Franchisee would have no control or *fails to comply with commitments made in the franchise application.*

- (d) Fails to maintain the Cable Communications System so as to be within the Federal Communications Commission Rules and Regulations with regard to technical standards adopted now or as may be in the future.

- (e) If, as a result of a dispute between the Company and the City and prior to a settlement of that dispute as provided herein, the Company arbitrarily or capriciously discontinues service to its subscribers, the Company shall forfeit its rights of notice and a hearing as provided herein, and the Common Council may, by resolution, declare the Company franchise immediately terminated and the City shall, forthwith, seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for herein.

(10) If this franchise is terminated by the Common Council by reason of the Franchisee's default, that part of the system located in the streets shall, at the election of the City, become the property of the City at a cost not to exceed its then fair market value according to generally accepted accounting principles, with a reduction for damages, if any, incurred by the City in connection

with such termination. Such fair market value if not agreed upon, shall be determined by arbitration pursuant to the terms of this contract, but shall not include any valuation based upon this franchise. Damages incurred by the City shall include, without limitation, any payment made by the City pursuant to a resolution of the Council authorizing or directing another person to operate the system for a temporary period until a franchise therefor is granted.

E. Transfer and Assignments.

(1) The Franchisee operating under this ordinance shall not be permitted to sell, transfer, or otherwise change more than ten (10%) percent of the ownership herein granted without prior written consent of the Board of Works and Common Council of Fort Wayne. If, after five years the Franchisee would consider sale of more than ten (10%) percent or a transfer of control, then provided the transferee met the character, financial and experience criteria, established by the Federal Communications Commission and the Common Council of Fort Wayne, the consent of the Board of Works and Common Council of Fort Wayne would not be unreasonably withheld.

(2) The Franchisee operating under this ordinance shall not be permitted to sell, lease, transfer, sublease, or otherwise change working control of the franchise herein granted without prior

written consent of the Board of Works and Common Council of Fort Wayne. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the Board of Works and Common Council may inquire into the qualifications of the prospective controlling party, and the Franchisee shall assist the Board of Works and Common Council in any such inquiry. If the Board of Works does not schedule a hearing on the matter within sixty (60) days after notice of the change or proposed change and the filing of a petition requesting its consent, it shall be deemed to have consented. In the event that the Common Council adopts a resolution denying its consent and such change, transfer or acquisition of control has been effected, the Common Council may terminate the franchise as provided in Section III D, infra.

(3) The consent or approval of the Board of Works or Common Council to any assignment, lease, transfer, sublease, or mortgage of the franchise granted to the Franchisee shall not constitute a waiver or release of the rights of the City in and to the streets.

IV. FRANCHISE TERRITORY AND EXTENSION OF SERVICE

A. The franchise is for the present territorial limits of the City and for any area henceforth added thereto during the term of this franchise.

B. Upon the annexation of any territory to the City the right

and franchise hereby granted shall extend to the territory so annexed and all facilities owned, maintained or operated by the Franchisee located within, under, or over streets of the territory so annexed shall thereafter be subject to all terms hereof.

C. The Franchisee whenever it shall receive a request for service from at least ten (10) subscribers within one thousand five hundred (1,500) feet of its system shall extend such system to such subscriber at no cost to the subscriber for the system extension other than the usual connection fee for all subscribers. The one thousand five hundred feet shall be measured in extension lengths of Franchisee's cable required for service located within the public way or easement and shall not include the length of any necessary service drop to the subscriber's home or premises.

D. In addition, the Board of Public Works may, upon request from any potential subscriber residing in the City, order the extension of the system to such subscriber after opportunity for hearing and notice to the Franchisee. In such cases, the Board of Public Works in its discretion may order such extension to any subscriber only upon payment by the subscriber of the cost of said extension.

E. The Franchisee shall construct and operate the system so as to provide service to all parts of the City having a density of at least fifty (50) residential dwelling units per mile of system.

The company may construct and operate its system, at its option, in areas having a lesser density factor unless required to provide service by C, infra. The system shall be designed for operation twenty-four (24) hours a day and interruption of service or repairs by the Franchisee shall be made only at reasonable hours.

F. *If construction of microwave facilities is needed to import distant signals*, the Franchisee will immediately design a system, locate appropriate sites, and make application to the Federal Communications Commission for the necessary permits and shall prosecute such applications diligently and faithfully. An application for a certificate of compliance will be filed within thirty (30) days from the effective date of the granting of the franchise or as soon as feasibly possible but in no case longer than one hundred twenty (120) days from the effective date of the granting of the franchise.

G. The Franchisee shall accomplish significant construction within one (1) year after receiving the Federal Communications Commission certification and shall thereafter equitably and reasonably extend energized trunk cable to at least twenty (20) percent of its franchise area each succeeding year. It is also required that the head-end be completed within one year after the Federal Communications Commission grants a certificate of compliance and appropriate building permits and zoning requirements have been approved.

V. SYSTEM DESIGN

A. (1) The cable television system to be installed by Franchisee shall comply in all respects with the capacity, capability, and technical performance requirements set forth in the FCC's Rules for Cable Television including applicable amendments thereto and including public, education, government, and leased access channels.

(2) A complete system override shall be installed at the head-end to notify subscribers of any national emergency.

(3) *The Franchisee shall install and maintain an activated return trunk from one location specified by I.U.-P.U. at Fort Wayne and from one location specified by the Fort Wayne Community Schools.*

B. Basic Service. The Cable Communications System permitted to be installed and operated hereunder shall:

(1) Be operationally capable of relaying television and radio broadcast signals to subscriber terminals without material degradation in quality;

(2) Distribute color television signals which can be received in color;

(3) Provide at least one (1) channel, without charge for exclusive use of the City. This channel will be dedicated for the use of the City government for an initial period of five (5) years

following the completion of the system's basic trunk line. At the end of five (5) years the channel usage will be evaluated by the Franchisee and the City government to ascertain whether to expand or curtail such free use. During the initial period this channel may be shared with other services with the understanding that the City government has first priority on its usage;

(4) Provide at least one (1) channel each for those educational and public access uses as now or hereafter required by the Federal Communications Commission for systems operating in the top one hundred markets;

(5) The above mentioned educational channel will be in addition to any educational broadcast signal carried on the Fort Wayne Cable Communications System.

(6) Until such time as there is demand for each channel full-time for its designated use, public, educational, government, and leased access channel programming may be combined on one or more cable channels. To the extent time is available therefore, access channels may also be used for other broadcast and nonbroadcast services.

C. Non-Basic Services. The cable television system permitted to be installed and operated hereunder, may also engage in the business of:

(1) Transmitting original cablecast programming not received through television broadcast signals;

(2) Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers;

(3) Transmitting and receiving all other signals; digital, voice and audio-visual.

D. Subscriber Service, Adjustment and Complaint. In addition to other service regulations adopted by the Common Council, and excepting circumstances beyond the Franchisee's control, such as Acts of God, riots and civil disturbances, the Franchisee shall:

(1) Limit system failures to minimum time duration by establishing a maintenance service which can locate and correct major malfunctions promptly. Said maintenance service shall be available, in addition to normal business hours, to correct such major system malfunctions affecting a number of subscribers which occur from the time the Franchisee's main, local office closes until 12:30 a.m., Monday through Friday and from 8:00 a.m. until 12:30 a.m. on Saturdays, Sundays, and holidays.

(2) Maintain an office in the City, which office shall be open during usual business hours, with a listed local telephone number which shall be made available to subscribers for service calls at any time of the day or night. Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls, showing

when and what corrective action was completed. Such records shall be available to the City during normal business hours and retained in Franchisee's files for not less than three (3) years.

(3) Render efficient service, making repairs promptly and interrupting service only with good cause and for the shortest time possible. Planned interruptions, insofar as possible shall be preceded by a notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.

(4) Each new subscriber will be given a copy of the contract for service, together with complete written instructions on the procedures for service, complaints and disconnection.

E. Government Channel. With respect to the local government channel, the Franchisee shall provide, at the request of the Board of Public Works and upon City reimbursement of the Franchisee's actual cost, use of Franchisee's studio, equipment and technical services for production of live and video-tape municipal programs, subject to scheduling requirements of the Franchisee;

(1) Franchisee shall provide, without charge, one outlet to a conveniently accessible point in each fire station, police station, public library, and public and parochial school that is passed by its cable and to such buildings as used for municipal purposes as may be designated by the City. If more than one outlet is required at any of said locations, the said location's administrator will seek bids from qualified individuals to perform such multiple work. Any multiple outlet extensions will be designed and built to the Franchisee's cable system specifications. In no event will there be a monthly service charge at said location. However, if it is necessary to extend Franchisee's trunk or feeder lines more than three hundred (300) feet solely

to provide service to any such school or public building, the City or school system shall have the option either of paying Franchisee's direct costs for such extension in excess of three hundred (300) feet or of releasing Franchisee from the obligation to provide service to such building.

F. Public Access Channel. Franchisee shall provide one free, dedicated non-commercial public access channel to be available at all times on a non-discriminatory basis..

(1) The Franchisee must provide equipment to be used by access cablecasters with the aid of a technical and production staff to be provided by the operator. Included should be equipment that can store programs for later showing. In addition, a local studio must be made available to all access users on a first come, first served basis.

(2) Any applicant to operate the system will be expected to demonstrate in his application how it plans to make available the equipment, the studio, and production and technical staff.

(3) A full schedule of rates for use of equipment, studio, and technical and production staff must be submitted (see separate document entitled Applications).

G. Off the Air Programming.

(1) The Franchisee shall carry the signals of all television stations licensed to communities within thirty-five (35) miles of the City of Fort Wayne pursuant to the Rules and Regulations of the Federal Communications Commission.

(2) The Franchisee shall also transmit or distribute *a suitable multi-channel FM radio and/or similar audio programming service of specialty stations not available locally.*

(3) The Franchisee shall carry the signals of other TV stations pursuant to the present and future regulations of the Federal Communications Commission.

H. Compatibility and Connectability. It is the desire of the City that *the* Cable Communications Systems franchised hereunder shall, insofar as financially and technically possible, be compatible one with another and with systems adjacent to the City. Whenever it is financially and technically feasible, the Franchisee shall so construct, operate and modify the system so as to tie the same into all other systems within and adjacent to the City, subject to any Federal Communications Commission Rules and Regulations,

I. Innovations and Experiments. It shall be the policy of the City to encourage Franchisee to undertake a variety of approaches to the development of equipment, services, techniques, and programming. Franchisee may conduct experiments for this purpose, provided however, that such experiments or innovative equipment or techniques, services, and programming shall not be violative of any Federal Communications Commission rule, regulation, order, or other laws or regulatory measures of any government or agency.

(1) After completion of any experiment, a final report giving results and any interpretation thereof shall be filed with the Board of Public Works. The City Council understands that experiments of this type involve proprietary information and in that regard does not require the Franchisee to jeopardize the total results of the experiment or breach its confidential relationship with any other party. All that is required under the terms of this paragraph is a basic description of the experiments and the results obtained, if not confidential.

J. Two-way Provision and Subscriber Privacy. Where two-way experiments or operation are planned, considerations must be given to the following:

(1) Monitoring. No monitoring of any terminal connected to a system shall take place without specific written authorization by the user of the terminal in question. In no event shall aural or visual monitoring of any kind take place without a clear indication to the subscriber that such monitoring is presently taking place. This may be in the form of an audible sound signal or light signal or any other form the Franchisee deems reasonable. This indication to the subscriber is not required where a terminal is merely "polled" by a digital signal as opposed to a voice or visual signal. It is the intent of this paragraph to give absolute protection against unwarranted invasion of privacy to each subscriber on the Fort Wayne Cable Communications System. At any time the Franchisee initiates a subscriber response system for use in the Fort Wayne Cable Communications System the cable operator shall make a presentation to the Board of Works to show that the system can operate effectively in a particular mode without requiring the light and/or audible sound signal and yet give absolute protection against any unwarranted invasion of privacy.

K. Underground and Overground Installation Requirements.

(1) Underground installation. In areas of the City having

telephone lines and electric utility lines underground, whether required by ordinance or not, all or any Cable Communications System permittees' lines, cables, and wires shall be underground. It shall be the policy of the City that existing poles for electric and communication purposes be utilized wherever possible, and that underground installation even when not required is preferable to the placing of additional poles.

(2) Construction standards; clearances above ground. The Franchisee's distribution system in the public streets shall comply with all applicable laws, regulations, and ordinances and all its wires and cables suspended from poles in the streets shall comply with the minimum clearance above ground required for telephone lines, cables, wires and conduits, and shall be installed in conformance with good engineering practice.

(3) Grounding. All cable entrances into any building, whether it be industrial or residential, shall be grounded at the entrance in accordance with good engineering practices.

L. System Reliability. All reasonable system design considerations will be made such that a local, public utility power outage of limited duration in one portion of the franchised area will not affect the system's operation or service to subscribers who are not affected by the same power interruption. This requirement does not apply to the head-end, but does apply to all other portions of the cable system.

VI. TECHNICAL PERFORMANCE STANDARDS

A. The minimum technical standards required by the City of Fort Wayne by the Franchisee shall be those set forth by the Federal Communications Commission in Part 76, Subpart K, of the Federal Communications Commission Rules and Regulations. Standards of good engineering practices established by the state-of-the-art will be followed in all cases by the Franchisee in the installation and operation of the Fort Wayne Cable Communications System. (Examples would be the National Electrical Code, NCTA's Standard of Good Engineering Practices, etc.).

B. System Testing. The Franchisee will adopt a procedure for testing the cable system including test conditions and equipment, locations and time intervals for testing and the measurement procedures for performing such tests. These procedures should be written and maintained in a file in the Franchisee's office subject to inspection by the Board of Public Works for the City of Fort Wayne or any designated representative thereof.

C. Proof of Performance. Results of system proof of performance tests should be submitted to the Board of Public Works for the City of Fort Wayne to insure the system's quality. This proof of performance test shall be performed as prescribed by the Federal Communications Commission Rules and Regulations governing cable television.

VII. LOCAL REGULATORY FRAMEWORK

A. Operational Reports.

(1) Within six (6) months from the grant of this franchise, the Franchisee shall submit to the Board of Public Works an installation plan for the entire City, indicating the dates on which the Franchisee expects the installation of the Cable Communications System to be completed and available for service to subscribers in the various areas of the City.

(2) The Franchisee shall furnish the Board of Public Works with progress reports indicating in detail the area of construction of the Cable Communications System. Such periodic reports shall be furnished at six month intervals, the first report is to be made three (3) months after the construction commencement date.

(3) Following approval and grant by the Federal Communications Commission of a Certificate of Compliance and system turnon, the Franchisee will submit quarterly a summary of subscriber complaints and actions taken by the Franchisee. This report shall be submitted to the Board of Public Works.

B. Books and Records of the Franchisee.

(1) The Franchisee shall file with the Board of Public Works an accurate copy of maps and/or plats of all existing and proposed installations upon or under the streets. These maps and

plats shall conform to the requirement of the Board of Public Works and shall be *up-dated quarterly*.

(2) The Franchisee shall keep on file with the City a current list of its stockholders holding *five* (5%) percent or more of the outstanding stock and all officers with their current addresses. In the event of a change in this information, a report will be filed within thirty (30) days after such change.

(3) All books and records of the Franchisee concerning its operations within the City shall be made available for inspection and audit by the Controller within thirty (30) days after any request for such inspection or audit shall be made.

(4) The Franchisee will prepare a book of rules, regulations and conditions for the conduct of his business including maintenance schedules and subscriber service and complaint procedures and a copy shall be filed with the Board of Works and City Clerk and in the local office of the Franchisee for public inspection.

C. Filing Communications with Regulatory Agencies. Copies of all petitions, applications and *correspondence* submitted by the Franchisee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter *directly* affecting the Cable Communications System operation, shall also be submitted simultaneously to the City by filing same with the City Attorney,

D. Supervision by the City.

(1) The Franchisee shall construct, operate and maintain the Cable Communications System subject to the supervision of all of the authorities of the City who have jurisdiction in such matters and in strict compliance with all laws, ordinances and department rules and regulations.

(2) The Cable Communications System and all parts thereof shall be subject to the right of periodic inspection by the City.

(3) The Board of Public Works may from time to time issue such reasonable rules and regulations concerning the construction, operation, and maintenance of the Cable Communications System as are consistent with the provisions of this ordinance.

(4) If at any time the powers of the Common Council or any agency or official of the City are transferred by law to any other board, authority, agency or official, said transferee shall have the powers, rights and duties vested under this ordinance or by law in the Common Council or any agency or official of the City.

E. Compliance with State and Federal Law.

(1) Notwithstanding any other provision of this franchise to the contrary, the Franchisee shall at all times comply with all laws and regulations of the state and federal government or any administrative agency thereof provided, however, if any such state or federal law or regulation shall require the Franchisee to perform any service or shall prohibit the Franchisee from performing any

service or shall permit the Franchisee to perform any service in conflict with the terms of this franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, the Franchisee shall notify the Mayor or the Board of Public Works of the point of conflict believed to exist between such regulation of law and the laws or regulations of the City or this franchise.

(2) Franchisee shall be subject to all City ordinances as set forth herein and Franchisee shall also be subject to all applicable rules and regulations which, from time to time, may be promulgated by the Federal Communications Commission for Cable Communications Systems including that for CATV.

(3) If the Common Council determines that a material provision of this ordinance is affected by such subsequent action, the Common Council shall have the right to modify any of the provisions herein to such reasonable extent as then be necessary to carry out the full intent and purpose of this ordinance *to comply with Federal Communications Commission's or other higher regulatory agencies' rules and regulations.*

F. Preferential or Discriminatory Practices Prohibited. The Franchisee shall not as to rates, charges, service facilities, rules, regulations or any other respect make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection and service charges may be waived or modified during promotional campaign of the Franchisee.

G. Franchisee's Duty to Remove its Properties From the Public Streets.

(1) Following the Franchisee's commencement of service through and over the Cable Communications System, the Franchisee shall promptly remove from the public streets where its properties are located all or any part of the facilities so located when one or more of the following enumerated conditions occur:

- (a) The Franchisee ceases to operate the Cable Communications System for a continuous period of six (6) months from the date of said occurrence;
- (b) The Franchisee fails to construct said system as hereinabove and hereinafter provided; or
- (c) The franchise is terminated pursuant to notice as provided herein.

(2) Provided that the Franchisee shall be entitled to receive notices in writing from the City setting forth one or more of the occurrences hereinabove enumerated or such other occurrence hereinbefore or hereinafter provided and that the Franchisee shall have ninety (90) days from the date upon which said notice is received to remove said properties as hereinabove required.

H. Franchisee's Duty to Protect Property of City.

(1) Franchisee shall in construction, maintenance, operation, relocation, expansion, modification, or removal of any part of the system protect the property of the City and all other lawful users of the public ways.

(2) Franchisee shall at his own expense protect, support, relocate, disconnect or remove any of its equipment when ordered to do so by the City for reasons of traffic conditions, public safety, street vacation, construction, establishment, repair, alteration, or other construction, repair, alteration or establishment of or in any public ways. Upon failure of Franchisee to commence, pursue, or complete work ordered under this provision within the time prescribed and to the satisfaction of the City, the City shall cause such work to be done and Franchisee shall pay the cost thereof within thirty (30) days after receipt of itemized statement. Failure to so pay shall be treated as a breach or violation of this ordinance and franchise and the City shall have the right to terminate the franchise.

(3) Franchisee shall protect its own equipment when ordered to do so by the Mayor or the Board of Public Works.

I. Franchisee's Recourse.

(1) Except as expressly provided in this franchise, the Franchisee herein shall have no recourse whatsoever against the City for any loss, cost, or expense or damage arising out of the provisions or requirements of this franchise or because of the enforcement thereof by the City, nor for the failure of the City to have the authority to grant all or any part of this franchise.

(2) The Franchisee expressly acknowledges that upon accepting this franchise, it does so relying upon its own investigation and understanding of the power and authority of the City to grant this franchise.

(3) The Franchisee by acceptance of this franchise acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement whether verbal or written by or on behalf of the City or by any other third person concerning any term or condition of this franchise not expressed herein.

(4) The Franchisee further acknowledges by acceptance of this franchise that it has carefully read the terms and conditions hereof and is willing to do and does accept all the risks of the meaning of such terms and conditions and agrees that in any event of any ambiguity therein or in the event of any other dispute of the meaning thereof, the same shall be construed strictly against the Franchisee and in favor of the City.

J. Failure of City to Enforce this Franchise, No Waiver of the Terms Thereof. The Franchisee shall not be excused from complying with any of the terms and conditions of this franchise by any failure of the City upon any one or more occasions to insist upon or seek compliance with any such terms or conditions.

K. Franchisee Will Not Contest Validity of Franchise. The Franchisee agrees by acceptance of this franchise that it will not at any time set up against the City in any claim or proceeding any present condition or term of this franchise as unreasonable, arbitrary or void or that the City had no power or authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of this franchise in their entirety.

(1) The right is hereby reserved to the Common Council to adopt, in addition to the provision contained herein and in existing applicable ordinances such additional regulations as it shall find necessary in the exercise of police powers; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(2) The City shall have the right during the term of this franchise, to install and maintain free of charge upon the poles of the Franchisee any wire and pole fixtures necessary for a Public Safety alarm system, and to install and maintain free of charge, on the headend tower, antennas and ancillary equipment for the communications system, on the condition that such wires, antennas and fixtures do not interfere with the cable operations of the Franchisee.

(3) The City shall have the right to perform customary inspections of construction or installation work performed pursuant to the provisions of this ordinance and make such routine inspections as it shall find necessary to insure compliance with the terms of this ordinance and other pertinent provisions of law. Franchisee shall pay all reasonable fees for such inspection by City inspectors during construction.

(4) After the expiration of the term for which the

franchise is granted, or after its termination, as provided for herein, the City shall have the right to determine whether the Franchisee shall continue to operate and maintain the Cable Communications System pending the decision of the City as to the future maintenance and operation of such system.

L. Acceptance. This ordinance and its terms and provisions shall be accepted by the Franchisee by written instrument executed and acknowledged by it in the same way as a deed and is required to be filed with the City Attorney within twenty (20) days after the granting of the franchise. Such written instrument shall state and express acceptance of this ordinance and its terms, conditions and provisions and said Franchisee shall agree in said instrument to abide by, observe and perform same, and declare that statements and recitals herein are correct and that it has made and does make the agreement, statements and admissions required under said ordinance.

M. Time Essence of This Agreement. Whenever this franchise shall set forth any time for any act to be performed by or on behalf of the Franchisee, such time shall be deemed of the essence and the failure of the Franchisee to perform within the time allotted shall be sufficient grounds for the City to revoke this franchise *in accordance with the procedure in Section III., Paragraph D. infra.*

N. Surety Bond.

(1) Franchisee shall maintain, and by its acceptance of this franchise specifically agree that it will maintain throughout the term of this franchise, a faithful performance bond running to the City, with a good and sufficient surety approved by the City in the penal sum of One Hundred Thousand (\$100,000) Dollars conditioned that the Franchisee shall well and truly observe, fulfill and perform each term and condition of this franchise and that in case of any breach, the City shall be entitled to recover from the principal and sureties thereof the amount of all damages including all cost and attorneys fees incurred by the City, proximately resulting from the failure of the Franchisee to well and faithfully observe and perform any and all of the provisions of this franchise.

(2) The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to thirty (30) days after written notice to that effect is given to the City and the Franchisee herein.

(3) The bond shall be in a form satisfactory to the City Attorney and a duplicate copy of it, along with written evidence of payment of the required premium shall be filed with the Board of Public Works during the term of this franchise.

O. Insurance. At all times during the term of this franchise, Franchisee shall maintain, pay all premiums for and file with the Board

of Public Works a certificate of insurance or other proof evidencing the payment of premiums for the following:

(1) A general comprehensive public liability insurance policy, *including contractual liability*, indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents, and employees, from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the Franchisee under franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$1,000,000 for bodily injury or death of one or more persons in any one occurrence,

(2) Property damage insurance, *including contractual liability*, indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of Franchisee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$500,000 for property damage in any one occurrence,

(3) All of the foregoing insurance contracts shall be in form satisfactory to the City Attorney and shall be issued and maintained by companies authorized to do business in the State of

Indiana and acceptable to the Board of Public Works and they shall require thirty (30) days written notice of any cancellation to both the City and the Franchisee herein.

P. Indemnity. Franchisee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the City, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgment for injuries or damages (including but not limited to the expenses for reasonable legal fees and disbursements and liabilities assumed by the City in connection therewith).

(1) To persons or property, in any way arising out of or through the acts or omissions of Franchisee, its servants, agents, or employees or to which Franchisee's negligence shall in any way contribute;

(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm, or corporation, or the violation or infringement by Franchisee of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation (excluding claims arising out of or relating to City programming); and

(3) Arising out of the Franchisee's failure to comply with the provisions of any Federal, State, or local statute, ordinance or regulation applicable to the Franchisee in its business hereunder.

(4) The foregoing indemnity is conditioned upon the following:

The City shall give the Franchisee prompt notice of the making of any claim or the commencement of any action or suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the City from cooperating with the Franchisee and participating in the defense of any, litigation by its own Council at its own cost and expense. No recovery by the City of any sum by reason of the bond required in this ordinance shall be any limitation upon the liability of the Franchisee to the City under the terms of this ordinance, except that any sum so received by the City shall be deducted from any recovery which the City shall establish against the Franchisee under the terms of this ordinance.

Q. Arbitration. Franchisee shall be required to submit any matters in controversy or dispute with the City under this franchise to arbitration in all cases where the judgment of a court of law would be sought. Such matters shall be determined and settled by a panel of three (3) persons sitting as arbitrators, one person selected by the Franchisee, one person appointed by the Board of Public Works and the third person selected by the two already selected. The fees of the arbitrators shall be fixed by City Council and expenses of the arbitration shall be borne by the parties as arbitrators shall determine. The decision of the arbitrators shall be reduced to judgment as provided by Indiana Statutes.

R. Day-to-Day Regulation. The City does hereby designate the Board of Public Works to exercise the City's continuing regulatory and supervisory jurisdiction over the franchise, and in this regard

the Board of Public Works, subject to the right of the Common Council to terminate such responsibilities in accordance with I.C. 18-1-6-14 thru 18-1-6-19 at any time upon notice to the Board of Public Works, shall have the following responsibilities and duties and such other responsibilities and duties that the Mayor or Common Council may assign and delegate to it:

(1) In cases where a franchisee does not make a reasonable effort to satisfy a customer complaint or where there is a finding that service failures or poor service, inferior audio or video signals result from Franchisee's system operation, the Board of Public Works shall have the power to:

- (a) Require the Franchisee to adjust billing charges for service deficiencies in whole or in part, based upon the Board of Public Work's evaluation of the deficiencies and the equity involved.
- (b) Require the Franchisee to make reasonable refunds.
- (c) Notwithstanding the fact that the *system* may be in compliance with all the standards set forth herein, the Board of Public Works may require a higher level of performance in any area to resolve signal quality or interference problems.

(2) In cases where requests for service have been ignored or unfilled for whatever reason, the Board of Public Works shall have the power to require the Franchisee to provide service in response to all reasonable requests as the Board of Public Works may determine based upon its determination of the intent of this ordinance.

S. Regulation of Auxiliary Services. The Franchisee must notify the Board of Works upon the establishment of a discreet service that will not be available to all subscribers. All notifications shall demonstrate that the service is in the public interest and will not affect the system's ability to deliver services to other users and

subscribers. In the event this section is in conflict with any Federal Communications Commission rule, regulation or decision, that rule, regulation, or decision will control.

VIII. RATES AND FRANCHISE PAYMENTS

A. In consideration of the granting and exercise of a franchise to use the streets, as herein defined, for the operation of a Cable Communications System, any Franchisee shall pay to the City, during the life of the franchise the following:

- (1) Three percent of its gross annual subscriber receipts.
- (2) Three percent of its gross annual receipts which are not included under Paragraph 1, above. This percentage will be in accordance with Federal Communications Commission Rules and Regulations and will take effect at such a time as the Federal Communications Commission Rules so allow.

B. The percentage payment shall be made in the manner, amounts and at times directed in said franchise or in a City Council resolution fixing franchise fees and adopting rules for service and regulations. *All funds received shall be deposited into a special revolving fund to be used for cable system related expenses.*

C. The City shall have the right to inspect the Franchisee's revenue records under the franchise and the right of audit and recomputation of any and all amounts payable under this ordinance; the cost of said audit shall be borne by the Franchisee when the same results in increasing by more than two percent the Franchisee's annual payment to the City.

D. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this ordinance or for the performance of any other obligation hereunder.

E. By its acceptance of this franchise, the Franchisee agrees that the Common Council shall have the power, authority and right, after a public hearing, to cause the Franchisee's rates and charges to conform to provisions hereof.

F. The rates and charges for television signals distributed hereunder shall be fair, reasonable and non-discriminatory.

G. Rates for all services *other than basic service* to be provided over the Cable Communications System by the Franchisee will be subject to the approval of the Board of Public Works and Common Council at such time as the Federal Communications Commission Rules and Regulations so permit.

H. No charge shall be made to the City for its use of City channel.

I. A copy of any form or any agreement, undertaking or other instrument proposed to be entered into between the Franchisee and any subscriber shall be submitted first to the City Attorney for his approval.

J. The procedure for a change of rate shall be as follows:

(1) The Franchisee shall advise the Board of Public Works and the Common Council of a proposed change in rates.

(2) In the absence of notification from the Board of Public Works or Common Council, the rate change may take effect at the end of sixty (60) days.

(3) If the Common Council believes that there should be a review of the rate change prior to its adoption, the Franchisee and the general public shall be given notice within twenty (20) days that the Common Council has scheduled a hearing on the change.

(4) Notice to the general public will be given between the hours of 7:00 p.m. and 9:00 p.m. for five (5) consecutive days on the channels of the cable system and written comments may be filed by any interested parties within thirty (30) days from the final date of the notice.

(5) The Common Council will advise the Franchisee of its decision on the requested rate change within fifteen (15) days of the public hearing. The Franchisee shall be allowed to increase its rates if it can demonstrate to the Common Council's satisfaction that they cannot make a fair return on their investment without a rate increase.

IX. EMPLOYMENT REQUIREMENTS

A. The Franchisee must establish an affirmative plan to employ qualified minorities and women in accordance with Federal Communications Commission and Federal regulations. This plan must be filed with the City Attorney and show an equal opportunity program.

B. Equal opportunity in employment shall be afforded by the Franchisee to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

X. MISCELLANEOUS PROVISIONS

A. Removal of Facilities Upon Request. Upon termination of service to any subscriber, the Franchisee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon written request. Such removal shall be at no cost to the subscriber.

B. User permitted. Any franchise granted pursuant to the provisions of this ordinance shall authorize and permit Franchisee to engage in the business of operating a Cable Communications System in the City, and for that purpose to erect, install, and construct, repair, replace, re-construct, maintain and retain in, on, over, under, upon, across and along any street, such pole,

wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, and appliances, attachments, and other property as may be necessary and appurtenant to the Cable Communications System; in addition, to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other Franchisee franchised or permitted to do business in the City.

C. A franchise, easement, license or other permit granted to anyone other than the Franchisee to traverse any portion of the City in order to provide service outside the City shall not authorize nor permit said person to solicit, sell, or distribute, or make any charge to subscribers within the City, nor to render any service or connect any subscriber within the City to the Cable Communications System or Franchisee.

D. Franchisee Shall Be Prohibited From Directly or Indirectly Doing Any of the Following:

(1) Engaging in the business of selling at retail, leasing, or rent, repairing or servicing of television sets or radios;

(2) Imposing a fee or charge for any service or repairs to subscriber-owned receiving devices except for the connection of its service or for the determination by Franchisee of the quality of its signal to the recipients thereof;

(3) Soliciting, referring, or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by the Franchisee.

(4) Providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose.

E. When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk.

F. No person, firm or corporation within the service area of the Franchisee, and where trunk lines are in place, shall be refused service, provided, however, that the Franchisee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charge.

G. Where the Franchisee engages salesmen to solicit for subscribers on a door-to-door basis it will be a requirement under terms of this franchise that such salesmen be properly identified.

H. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by a decision of any court of competent jurisdiction or the Federal Communications Commission, such decision shall not affect the validity of the remaining portions hereof. The Common Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this ordinance shall not abate, reduce or otherwise affect any consideration or any other obligation required herein. In its consideration of this ordinance as part of the application by the Franchisee for a certificate of compliance, should the Federal Communications Commission consider any portion hereof contra to any of its Rules or Regulations and that portion which is considered contra shall be deemed invalid such invalidation will not affect any other portion of this ordinance.

XI. APPLICANT SELECTION PROCESS

A. Restrictions on Applicants. Applicants are required to meet all obligations and specifications as set out in this ordinance at the time of filing of their application, and in addition are required to meet the following restrictions before their applications will be considered or accepted:

(1) Applicants and Franchisee shall be bound in all matters in controversy to be subject to Indiana law.

(2) Applicants shall fully disclose all agreements and understandings whether written or oral or implied with any person, firm, group or corporation, with respect to this franchise and its proposed operation prior to granting by the Board of Works and approval of the Common Council. Further the successful Franchisee shall disclose all other contracts to the Common Council when made, if so requested by the Common Council. This paragraph shall include but not be limited to, any agreement that local applicants may have with national companies.

(3) All applicants seeking the franchise for the

City of Fort Wayne shall submit applications as provided by the terms of the application document which is hereby incorporated by reference to be made part of this ordinance. The requested information therein must be complete and verified by an officer of the corporation or if an individual, by that individual.

(4) The City reserves the right to amend or supplement the selection criteria at any time prior to the time fixed for opening of applications. Such amendments, supplements, bulletins or addenda will be distributed to all applicants who have ordered copies of this ordinance.

B. Public Hearings on Applications. Common Council shall after the last day fixed for receipt of the applications cause to be published in the local newspapers of general circulation a notice of public hearings giving the times, date, places of said hearings, and listing the names of the applicants and inviting public examination of the applicant and applications, and inviting testimony on the qualifications of said applicants.

(1) Copies of the applications received by the City will be in the office of the Board of Public Works and City Clerk's office at the City-County Building, available for public inspection during normal business hours.

(2) Public hearings shall be conducted in accordance with standards of due process in fairness to applicants and the public,

and in accordance with the Federal Communications Commission Rules and Regulations and orders and policies pertinent to such hearings. Each applicant will be notified of the time and location for his application to be considered.

(3) These hearings shall be recorded and transcribed and supplied to the successful applicant. Copies will be made available to others upon request at cost.

(4) The exact procedure to be followed at each hearing will be provided to the applicant at least ten (10) days prior to his appearance.

C. Method of Selection. Each Councilman and each member of the Board of Works shall be supplied with a copy of each application certified to the Council by the City Attorney at least five (5) days before any public hearings, along with a list of the criteria to be used in evaluating the applicant. The criteria shall be as follows:

(1) Financial stability of the Applicant.

Demonstrated financial resources and commitments that will insure prompt installation of the proposed system; records of successful business management.

(2) System Capability.

Total channels provided; proposed Utilization of channels; quality of equipment proposed; proposed construction time table; two-way capability; future expansion.

- (3) Character and Fitness of Applicant,
its Officers, Executives, and Owners.

Any criminal record; outstanding charges or warrants; previous bankruptcy procedures.

- (4) CATV Experience.

Ownership and operation of other systems; demonstrated experience of employees or subcontractors to be involved in planning, engineering and construction.

- (5) System Operation.

Facilities and personnel allocated; procedures for maintenance and subscriber service and complaints; charges for services and use of facilities; ascertainment of community needs and proposed solutions.

- (6) Additional Recommendations Proposed
by Applicant.

The above criteria will be used by the Common Council and the Board of Public Works to judge each application. Provided, however, that if a majority of the Council believe that a particular application is seriously deficient in any of the first five (5) criterion, that application may be dropped from final consideration.

The Common Council and the Board of Public Works shall evaluate each applicant and the Franchise shall be granted by the Common Council.

XII. CABLE TELEVISION PROGRAM
ADVISORY COUNCIL ESTABLISHED

A. Establishment of Cable Television Program Advisory Council. There is established a Cable Television Program Advisory Council consisting of nine (9) persons with two (2) members each representing the public, educational and governmental users and two (2) persons chosen at large to be representative of the community. Four (4) to be appointed by the Mayor; four (4) by Common Council with the President *of the Common Council or his designee* as the ninth (9th) member. The first appointments shall be four (4) for a one (1) year term; four (4) for a two (2) year term; and thereafter all appointments shall be for two (2) year terms. It is recommended that four (4) initial appointments be representative of the four categories described - three (3) from the users and one (1) person at large.

At least two (2) weeks before any persons are appointed to the Cable Television Program Advisory Council, written applications from interested persons who are willing and able to serve on said Advisory Council shall be requested. Such applications shall clearly indicate the category that a person would be representing. In making appointments to said Advisory Council, the Mayor and Common Council shall consider the applications submitted by persons as well as such other persons as may come to the attention of the Mayor and Common Council as being qualified.

B. Advisory Council Duties. The Cable Television Program Advisory Council shall perform the following functions:

(1) To make recommendations to the Franchisee of the Cable Communications System and to the educational and governmental users of the educational and governmental access channels.

(2) To report methods that the Franchisee can make the public access channel available to all residents of the City on a non-discriminatory basis.

(3) To recommend and receive assurances that the operation of the public access channel be free of program censorship and control.

(4) To perform such other duties and functions relative to the public access channel as may be appropriate for the Advisory Council.

(5) To make recommendations to the Franchisee on the procedural aspects of the public access channel.

C. Advisory Council Rules and Procedures. The Advisory Council shall have the authority to submit proposed rules and regulations for the conduct of its business to the Mayor and *Common* Council for approval, and upon approval, shall have the right to hold hearings and make recommendations to the Franchisee of the Cable Communications System and to the educational and governmental communities on the coordination of the educational and government access channels. All such actions shall only be advisory.

XIII. EFFECTIVE DATE OF FRANCHISE

The franchise hereby granted shall not become effective unless and until Franchisee files written acceptance thereof and agreement to be bound by and comply with all of the requirements thereof, and delivers to the City the bond and insurance policies required to be furnished all pursuant to provisions of this ordinance.

XIV. APPLICATIONS

(This chapter, a separate document, is hereby incorporated by reference.)

XIV. APPLICATIONS

Applications for a cable television franchise to construct and operate a cable television system within the City of Fort Wayne shall be prepared in accordance with the advice contained in the instructions herein. One original application and twenty-four (24) copies (including appendices) shall be received in the Office of the Board of Public Works, Room 910, City-County Building, One Main Street, Fort Wayne, Indiana 46802, no later than 2:00 p.m. on October 26, 1977. It should be noted that applications submitted after this date and time cannot be accepted.

Each application shall be accompanied by a filing fee in the amount of TEN THOUSAND DOLLARS (\$10,000.00) which shall be made payable to the Controller of the City of Fort Wayne, Indiana.

Any person may file an application for a franchise upon payment of the prescribed fee.

The entire application fee received from a successful applicant, together with such portions of other applicant's fees as are not refunded shall be credited to the General Fund of the City for the purpose of investigation of the Cable Communications Systems Certificate applications and for establishing the procedures for the Cable Communications Systems regulations.

In the event the determination costs exceed the said TEN THOUSAND DOLLARS, the overage will be assessed on a pro-rata basis among unsuccessful applicants but in no case will the assessment be greater than ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) per applicant; (i.e., each unsuccessful applicant is guaranteed of receiving a minimum of EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00) refund). Refunds to unsuccessful applicants will be made within thirty (30) days of granting the franchise.

In addition to the previously mentioned contents and chapters to be included in this application, the applicant shall include the following:

- (a) Any request for disclosure of any information whatsoever from any City Councilman or public official with regard to the granting of this franchise;
- (b) Any objections to the applicant selection process to be followed by the City of Fort Wayne as set out in this document;
- (c) A statement to the effect that the applicant understands that if he does not herein present any objections as set out in (a) and (b) above, he hereby waives the right to make these objections at a later date following the filing of this application.

(It is the City Council's intention in this regard to prevent any future misunderstandings between any applicants and the City of Fort Wayne which could result in litigation and delay the commencement of construction of the cable television system.)

INSTRUCTIONS FOR FILING AN APPLICATION
FOR A CABLE TELEVISION SYSTEM FRANCHISE
IN FORT WAYNE, INDIANA

1. All applications must be made on the Application Form. All questions must be answered. Where the answer space provided is found to be inadequate, responses may be continued in Appendix A, with specific citations of page and question numbers.
2. Applicants may submit, as Appendix B, any additional germane material not required by the Application Form which the Applicants feels will be helpful to the City or its consultant in the selection process.
3. Applications not properly signed and executed will not be accepted for consideration.
4. Should any applicant be in doubt with respect to the meaning of any part of the application, or section thereof, or should any discrepancy or omission be discovered in the Application Form, the applicant should expeditiously inform the Board of Public Works. Should it be deemed necessary by either the Board of Public Works or the City's consultant, a bulletin of correction or explanation will be sent to all applicants. In any event, all questions pertaining to any facet of the application process will only be accepted in written form by the Board of Public Works, and, further, Fort Wayne assumes responsibility for its written response only.
5. Substantive amendments will not be considered except to acknowledge involuntary changes such as a change in ownership due to death. Correction of inadvertent errors submitted prior to the filing deadline will be considered. Correction of inadvertent errors submitted after the filing deadline may be considered, at the discretion of the City or its consultant, if the applicant submits with its correction sufficient information to prove that the error as inadvertent. Additional information or data may be requested by the City or its consultant if, in their judgment, this would aid in preparing a fair and accurate analysis.

APPLICATION FOR CABLE TELEVISION FRANCHISE
APPLICANT'S AFFIDAVIT

This application is submitted in response to Ordinance No. G-77-04-19 of the City of Fort Wayne, Indiana by the undersigned who has been duly authorized to make the representations within on behalf of the applicant.

Applicant recognizes that all representations are binding on it and that failure to adhere to any such representation may, at the City's option, result in revocation of any franchise that may be granted, in consequence of this application.

Consent is hereby given to the City of Fort Wayne to make inquiry into the legal, character, technical, financial and other qualifications by contacting any persons or organizations named herein as references, or by any other appropriate means.

Firm name _____

Affiant's signature _____

Official position _____

Date: _____ Attest: _____

(Signature)

(Corporate secretary or authorized official)

APPLICATION FOR
CABLE TELEVISION SYSTEM FRANCHISE
FOR THE CITY OF
FORT WAYNE, INDIANA

PURSUANT TO ORDINANCE NO. G-77-04-19

Due at the office of the Board of Public Works

on October 26, 1977 at 2:00 p.m.

Date of this application _____

Name of applicant _____

Address of applicant _____
(Street address)

(City, state, zipcode)

Name and telephone number of principal to

whom inquiries should be made: _____
(Name)

(Area code - telephone number)

(Authorized signature - title)

PART I. OWNERSHIP AND ORGANIZATIONAL STRUCTURE

- A. Check the appropriate box to indicate the type of organizational structure proposed by Applicant:

☐

Individual

☐

General Partnership

☐

Corporation

☐

Limited Partnership

☐

Joint Venture

☐

Other (Explain) _____

- B. Supply, as Exhibit I-1, a true copy of the appropriate corporate charter, partnership agreement, or joint venture agreement.
- C. All applicants are required to respond to questions C-1 through C-4 as they apply. Figure I-1 is included in this form to assist Applicants in responding.

1. LEVEL 0 (Applicant)

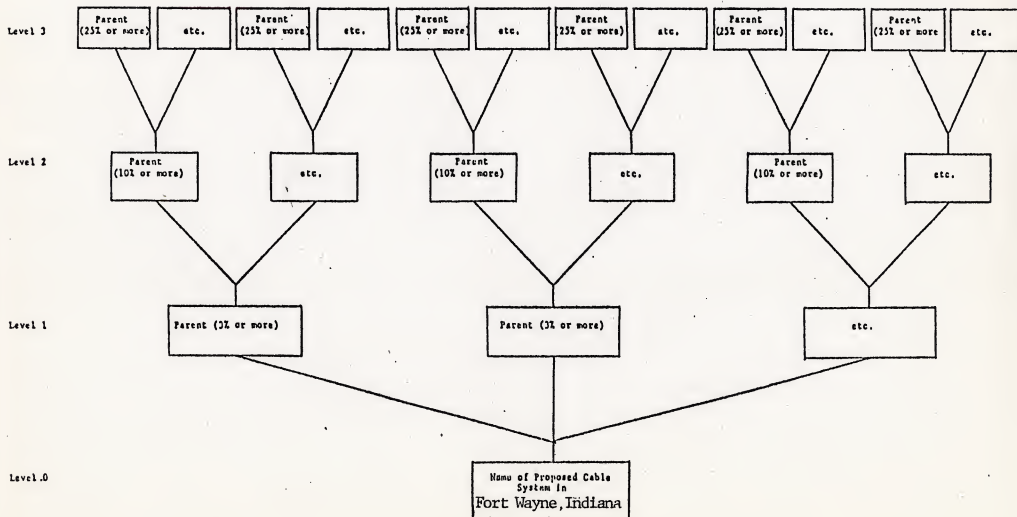
Does Applicant have any existing or proposed subsidiaries or divisions that would conduct business using different names?

☐
Yes☐
No

If "Yes", give the name, addresses and purpose of each.

Name	Address	Purpose

Figure 1-1



2. LEVEL 1

List below any Level 1 corporation, partnership, individual, or other business entity owning 3% or more of the voting stock or ownership rights of the Applicant.

Name of Business Entity	City and State	Type of * Organization	Percent Ownership

* e.g., partnership, individual, corporation, joint venture, etc.

3. List below any Level 2 corporation, partnership, individual or other business entity owning 10% or more of the voting stock or ownership rights of any of the entities named in Level 1.

Name of Business Entity	City and State	Type of* Organiza.	Percent Ownership	Which Level 1 Entity?

#3. (cont.)

Name of Business Entity	City and State	Type of* Organiza.	Percent Ownership	Which Level 1 Entity?

* e.g., partnership, individual, corporation, joint venture, etc.

4. LEVEL 3

List below any Level 3 corporation, partnership, individual or other business entity that owns 25% or more of the voting stock or ownership rights of any of the entities named in Level 2.

Name of Business Entity	City and State	Type of* Organiza.	Percent Ownership	Which Level 2 Entity?

* e.g., partnership, individual, corporation, joint venture, etc.

D. Officers, Directors, or Partners

1. List below Applicant's corporate officers and directors, general and limited partners, or the officers or other responsible officials if Applicant is neither corporation nor partnership.

Name	Mailing Address	Title	Percent Ownership

2. Submit, as Exhibit II-2, a copy of the latest available annual report to shareholders and the latest available prospectus (if any) for any parent corporations at Levels 1, 2, or 3.
3. List below the names and addresses of partners or responsible officials of parent organizations at Levels 1, 2, or 3 which are not corporations.

1. If the Applicant is a corporation:

1. Supply the following information for each class of stock issued or proposed:

Class of Stock	Voting or Non-Voting	No. Shares Authorized	No. Shares Issued	No. Shares Subscribed	No. Of Shares Held by Officers and Directors	Total No. Share-holders

2. How many shares of each class of stock in the Level 0 corporation does Applicant propose to offer for sale to the public, or have already been sold to the public?

Class	No. of Shares for Public Sale	No. of Shares Sold to Public to Date

G. Convertible Debt

1. Does Applicant propose that any of its debt funding set forth in Part.III herein will be convertible to equity with voting rights during the term of the franchise?

☐

Yes

☐

No

2. If "Yes," list below the pertinent details:

Name of Lender	Percent ownership available by debt conversion

PART II. FINANCIAL PLAN

A most important element of this application is an adequate showing of financial capability to perform in accordance with the franchise and this application. Therefore, failure to provide the detailed pro forma data requested in the following schedules may be interpreted by the City as evidence that the Applicant is not properly qualified to receive a grant of franchise.

To supplement the pro forma financial projections, Applicants are invited to submit, as Exhibit II-1, a description of the financial plan envisioned for the Fort Wayne system. The plan should be well-conceived and applied specifically to Fort Wayne. If supplied, the description should include plans for debt and equity participation, local ownership participation (if any), future refinancing (if anticipated), financial goals for the system, and any special benefits attendant to the Applicant's particular method of operation.

A. Subscriber Fee Structure

1. Regular Subscriber Service

- (a) First Outlet \$ _____/mo.
(b) Each Additional Outlet \$ _____/mo.

2. Installation Charge

- (a) First Outlet \$ _____
(b) Each Additional Outlet \$ _____

3. Moving and/or Reconnecting

\$ _____

4. Refundable Converter Deposit (if any)

\$ _____

5. If revenues derived from per-program or per-channel operations, or from channel leasing operations, are shown in the financial projections, state below the anticipated schedule of charges used for such pro-forma projections.

Type of Program	Per Channel Per Month	Per Program	Other Billing Unit

6. Describe below the basis for estimating revenues shown in the pro forma projections from any other sources, such as multiple dwelling units or transient rooms, ~~XX~~ service to other commercial establishments, advertising, etc.

B. Pro Forma Projections (Schedules)

1. For the purpose of preparing the pro forma projections for this application, the following terms shall have the meaning set forth herein:

Homes Passed:	The number of dwelling units (including apartments, mobile homes, etc., but not including transient motel/hotel units) which can be provided service with less than 150 feet of drop cable up to the point of building entry.
Subscribers:	See Article I, Sec. 1, J. Apartment units are counted separately if under separate contract; each negotiated contract under Article IV, Sec. 1, D is counted as one subscriber. Only the first outlet for each subscriber is included.
Subscribers Added:	The total number of new subscribers connected during the period.
Subscribers Retained:	The number of subscribers added during the period <u>less</u> the number of subscribers disconnected for any reason during the same period
Beginning Subscribers:	The cumulative total number of subscribers retained as of the start of the designated year.
Ending Subscribers:	The cumulative number of subscribers retained as of the end of the designated year; equals beginning subscribers plus subscribers retained during the designated year. (Also equals beginning subscribers for following year).
Average Paying Subscribers:	One-half of the sum of beginning and ending subscribers for the designated year.

Additional Outlets:

One less than the total number of outlets installed for each subscriber, as defined above.

Subscribers Using Pay-Cable and Pay-Cable Users:

Subscribers who have also contracted for and have been provided any special equipment required for reception of per-channel and/or per-program cablecasting.

Gross Revenues:

Where appropriate, this is the average number of subscribers (or Pay-TV users) multiplied by the monthly rate shown above multiplied by 12. In other cases, gross revenue is the total amount received during the year for the designated service before deducting any expenses, taxes, or other costs.

Year ():

Year 1 commences the day the complete regular subscriber service is first provided to one or more paying subscribers. Subsequent years commence on the same day of the year.

Pre-Opening:

The pre-opening period includes any time prior to the start of Year 1 (thus, it is meant to include even the pre-grant period).

Pro Forma Profit and Loss - Cash Flow Statement

Schedule A

10 Year

Total

Pre-Opening

Year 1

Year 2

Year 3

Year 4

Year 5

Year 6-10

Profit and Loss Statement

Gross Revenues (Schedule B)	\$	\$	\$	\$	\$	\$	\$	\$
Operating Expenses (Schedule D)	_____	_____	_____	_____	_____	_____	_____	_____
Gross Profit (Loss)								
Interest Expense								
Depreciation	_____	_____	_____	_____	_____	_____	_____	_____
Taxable Income (Loss)								
Federal Income Tax								
State Income Tax	_____	_____	_____	_____	_____	_____	_____	_____
Net Income (Loss)								

Cash Flow Statement

Add-								
Depreciation								
Capital Invested -								
Equity								
Debt	_____	_____	_____	_____	_____	_____	_____	_____
Cash Available								
Deduct -								
Capital Asset Costs (Schedule G)								
Debt Retirement								
Dividends								
Other (Specify)	_____	_____	_____	_____	_____	_____	_____	_____
Annual Working Capital	_____	_____	_____	_____	_____	_____	_____	_____
Cumulative Working Capital	\$=====	\$=====	\$=====	\$=====	\$=====	\$=====	\$=====	\$=====

	<u>Gross Revenues</u>							<u>Schedule</u>
	<u>Pre-Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>	<u>10-Year Total</u>
Basic Subscriber Service	\$	\$	\$	\$	\$	\$	\$	\$
First Outlet								
Additional Outlets								
Installation Charges								
Pay-Cable Revenues								
Bulk Contracts (Apts., Hotels, Motels, etc.)								
Other (Specify)								
 Total Gross Revenues	 \$ =====	 \$ =====	 \$ =====	 \$ =====	 \$ =====	 \$ =====	 \$ =====	 \$ =====

Homes Passed and Projected Subscriber GrowthSchedule C

	<u>Pre-Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>
--	--------------------	---------------	---------------	---------------	---------------	---------------	------------------

Homes Passed (Year End)-							
Annually	_____	_____	_____	_____	_____	_____	_____
Cumulative	=====	=====	=====	=====	=====	=====	=====

Projected Subscriber Growth -

Total Subscribers Added	_____	_____	_____	_____	_____	_____	_____
Subscribers Retained							
Beginning Subscribers	_____	_____	_____	_____	_____	_____	_____
Ending Subscribers	=====	=====	=====	=====	=====	=====	=====

Average Paying Subscribers/Year	=====	=====	=====	=====	=====	=====	=====
---------------------------------	-------	-------	-------	-------	-------	-------	-------

Operating Expenses

Schedule I

	<u>Pre-Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>	<u>10-Year Total</u>
General and Administrative -								
Advertising & Promotion	\$	\$	\$	\$	\$	\$	\$	\$
Salaries and Wages								
Taxes								
Franchise Fee								
Billing and Collection								
Miscellaneous Expenses								
Payments to Parent								
Office and Studio Rent								
Other (Specify)								
Technical -								
Salaries and Wages								
Microwave Service								
Pole and Duct Rental								
System Power								
System Maintenance								
Payments to Parent								
Rentals - Antenna Site								
- Shop and Warehouse								
Other (Specify)								
Program Production -								
Salaries and Wages								
Selling Expense and Promotion								
Program Materials and Supplies								
Wire Services								
Mobile Van Expenses(if applicable)								
Maintenance and Technical Supplies								
Payment to Parent								
Other (Specify)								
Total Operating Expenses	\$	\$	\$	\$	\$	\$	\$	\$

Payroll ExpenseSchedule E

In the parentheses (), indicate the equivalent number of full time employees for each category for years 1-5, e.g. an entry might appear as \$46,500(5) indicating five employees receiving a total of \$46,500 in that particular year.

	<u>Pre-</u> <u>Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>	<u>Total</u>
<u>Total Annual Salaries & Wages</u>								
General and Administrative(Specify) \$	\$	\$	\$	\$	\$	\$	\$	\$
		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
Technical (Specify)		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
Program Production (Specify)		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
		()	()	()	()	()	()	
Total Salary & Wage Expense	\$	\$	\$	\$	\$	\$	\$	\$
Total Employees		()	()	()	()	()	()	

Services Purchased from Parent Organization
(If Applicable)

Schedule F

	<u>Pre-Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>	<u>10-Year Total</u>
Administrative Overhead	\$	\$	\$	\$	\$	\$	\$	\$
Management Contract								
Accounting and Billing								
Computer Services								
Engineering-Technical								
Legal								
Programming								
Other (Specify)								
 Total	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>

Capital Asset CostsSchedule G

<u>Category</u>	<u>Pre-Opening</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6-10</u>	<u>10-Year Total</u>
Primary Head End								
(Antenna, Tower & Electronics)	\$	\$	\$	\$	\$	\$	\$	\$
Secondary Head Ends								
(Antennas, Towers & Electronics) ^{1/}								
Head End Buildings and Land								
Head End or Hub Interconnect								
Distribution System -								
Aerial Plant (including materials,								
labor, directional taps and make-ready								
costs)								
Underground Plant (including materials,								
labor and directional taps)								
Closed Circuit Equipment								
Local Origination and Access								
Pay TV								
Drop Costs								
Materials								
Labor (if capitalized)								
Converters								
CATV								
Pay Cable								
Office & Studio (including land)								
Vehicles								
Leasehold Improvements								
Furniture, Fixtures & Office Equipment								
Test Equipment								
System Spare Parts								
Small Tools								
Pre-Opening Costs (if capitalized)								
Total Capital Asset Costs	\$	\$	\$	\$	\$	\$	\$	\$

^{1/} Designate number of Secondary Head Ends in () in the year activated.

PART III. SOURCE OF FUNDS

A. Equity

1. Contributors of 3% or more of the equity funds required must be identified as follows:

Name of Contributor	Percent of Total Equity Shown on Schedule A *	Dollar Value of Contribution

- * Applies only to those participants providing 3% or more of the total equity funds as indicated in Schedule A.

2. Each contributor noted in (1) above is required, as Exhibit III-1, to submit a letter pledging payment of the proper share of the equity as shown in Schedule A, contingent only upon grant of the franchise within a reasonable time limit.
3. Each owner pledging such payment for equity should submit credible evidence of financial capability to meet the pledge, authenticated and dated. (Use Exh.III-1)

B. Debt

1. Identify the source, amount and terms of debt financing as proposed in Schedule A.

Source of Loans

Amount

Terms

a. Parent Company:

_____	_____	_____
Name		
_____	_____	_____
Name		

b. Financial Institution:

_____	_____	_____
Name		

City and State		
_____	_____	_____
Name		

City and State		

c. Equipment Supplier:

_____	_____	_____
Name		

	<u>Amount</u>	<u>Terms</u>
<u>Name</u>		
d. <u>Individuals:</u>		
<u>Name</u>		
<u>Name</u>		
<u>Name</u>		
<u>Name</u>		

2. Submit letters of commitment from each proposed lender listed above setting forth his commitment to make the indicated loan contingent only on the grant of franchise.
(Exhibit III-2)

C. Other Cable Television Interests

1. Existing Systems

List below information concerning existing cable television systems in which the Applicant or Parents listed in Part I at Levels 1, 2, or 3 have 25% or more ownership interest.

Name of Business Entity at Level 0, 1, 2 or 3	Number of Existing Systems (25% or more ownership)	Date Franchise Awarded	Homes Passed	Route Miles Completed	Route Miles of Extension and Rebuild. to be Completed by 1980	Date Construction started	Date Construction completed

C.1. Cont.:

Name of Business Entity at Level 0, 1, 2 or 3	Number of Existing Systems (25% or more ownership)	Date Franchise Awarded	Homes Passed	Route Miles Completed	Route Miles of Extension and Rebuild to be Completed by 1980

2. Unbuilt and partly completed franchises. List all franchises for which Applicant or any other Business Entity listed in Part I at Levels 1, 2, or 3 is, or will be, committed to provide funds before 1980. Also indicate the percentage of total funds required to be committed.

Name of Business Entity	Location of Franchise	Date Franchise Awarded	Homes in Franchise Area	Route Miles to be built before 1980	% of Funds Required

c.3. Cont.:

Name of Business Entity	Number of Applications Pending	Date Franchise Awarded	Homes in Franchise Area	Estimated Strand Miles to be built by 1980

PART IV - PROPOSED CHANNEL UTILIZATION

A. Definitions

To promote clarity and avoid misunderstanding, the following terms will have the meanings set forth below for purposes of this application.

Downstream:

Transmissions of any kind from the antenna site or a distribution hub to individual subscribers (or other users).

Upstream:

Transmission from one or more subscriber (or other user) terminals to an antenna site or distribution hub.

Cable A:

Trunk and feeder distribution system intended for downstream transmission of part or all of the "regular subscriber service" to all subscribers; may also be used for upstream transmissions of any kind.

Cable B and Cable C:

Additional trunk and/or feeder distribution systems used for transmission of (a) the balance of the "regular subscriber service" downstream to all subscribers, or (b) other services of any kind, to or from selected subscribers or other users, or (c) both.

Subscriber Drop Cables:

Cables that connect the subscriber (or other user) terminals to a service tap (or multi-tap) on feeder cable.

Feeder Cables:

That portion of the distribution system to which subscriber drops may be connected (or tapped).

Trunk Cables (Including sub-trunk or branch trunk):

That portion of the distribution system to which feeder cables are connected, either through passive couplers or bridger amplifier

Interconnection System (Including super-trunk cable):

That portion of the distribution system to which trunk cables are connected.

Distribution Hub:

Points within the distribution system where trunk cables are connected to the interconnection system. Antennas and origination facilities may in some cases also be connected to trunk cables at distribution hubs.

B. Downstream-TV Broadcasting Station Signals

1. How many channels does Applicant propose to utilize initially for carriage of TV broadcasting station signals?

Number of channels for carriage
of TV broadcasting stations

Cable A

Cable B

Cable C

2. List in Table IV-1, page 29 all TV broadcasting station signals whose entire program schedule Applicant proposes to carry initially (except for blacked-out periods required for exclusivity protection).

3. List below any TV broadcasting station signals Applicant proposes to carry part-time, initially. Explain briefly the circumstances of such carriage, describing any channel sharing arrangements proposed.

Call Letters	Off-Air Channel	Location	Network

Explanation: _____

Table IV-1

Proposed Downstream Carriage
TV Broadcasting Station Signals
(List only those stations whose entire
program will be carried except when
blacked-out for exclusivity protection)

Ident. No. (note 1)	Call Letters	Off-Air Channel	Location	Network Affiliation ABC/CBS/NBC IND/ETV/PBS	Category: Distant o Local(not
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

Note 1: Applicant is not required to make cable channel assignments at this time. This number is for identification purposes only.

Note 2: A "local" station is one within whose specified 35-mile zone the proposed system will be located, in whole or in part. All others are "distant".

4. List below any additional TV broadcasting station signals Applicant definitely plans to carry in the next 4 years. Explain briefly the circumstances and anticipated timing.

<u>Call Letters</u>	<u>Off-Air Channel</u>	<u>Location</u>	<u>Network</u>
-------------------------	----------------------------	-----------------	----------------

Explanation: _____

2. Will all, some, or none of the above FM radio signals be carried on-channel at the assigned license frequency?

All FM signals on-channel ☐

Some FM signals on-channel ☐

No FM signals on-channel ☐

3. List below those FM radio signals that will not be carried on-channel (unless all FM radio signals are to be converted):

Call Letters

Reason for off-channel carriage

4. What minimum separation does Applicant propose for carrier frequency assignments in the band 88-108 MHz on cable?

_____ MHz

D. Downstream - Access Cablecasting

1. Will more than one downstream television channel be made available initially for each of the following types of access cablecasting?

	No	Yes	If yes, How Many?
Public Access	<input type="text"/>	<input type="text"/>	<input type="text"/>
Education Access	<input type="text"/>	<input type="text"/>	<input type="text"/>
Local Government Access	<input type="text"/>	<input type="text"/>	<input type="text"/>

(Note: The Fort Wayne franchise neither requires nor prohibits access cablecasting facilities in excess of those necessary for compliance with FCC Rules.)

2. If the Applicant plans to lease channel(s), how many will be offered?

Number of channels _____

E. Downstream - Origination Cablecasting

1. How many channels will be utilized initially for origination cablecasting (subject to the exclusive control of the cable operator) for automated or non-automated programming? (Details will be provided in Part VI hereof.

Number of channels

Cable A _____

Cable B _____

Cable C _____

Downstream - Non-Television Facilities

List below indicated details concerning non-television downstream transmissions which Applicant proposes to carry initially, if any:

Nature of Service Offered	Signal Type (data, audio, etc.)	Bandwidth Required	Which Cable? (A, B or C?)

G. Downstream - General

1. Will all of the channels listed herein, on ~~Cables A, B, and C~~, be available to all subscribers as part of the "regular subscriber service" without extra charge?

	Yes	No
Cable A	<input type="checkbox"/>	<input type="checkbox"/>
Cable B	<input type="checkbox"/>	<input type="checkbox"/>
Cable C	<input type="checkbox"/>	<input type="checkbox"/>

2. If "no", explain below.

Upstream - Television Channels (Refer to Part V-A3)

How many upstream television channels (if any) does Applicant propose to make available initially for access or origination cablecasting, originating at subscriber or other user premises, and the general purpose served by such channels?

	Description of Purpose of Upstream TV Facilities	Number of Channels
Cable A-		
Cable B		
Cable C		

I. Upstream - Non-Television Facilities (Refer to Part V-A4)

List below the facilities (if any) Applicant proposes to activate initially for upstream transmission of non-television signals originating at subscriber or other user premises, and the use Applicant expects to make of such facilities.

Description and Expected Use of Upstream Non-TV Facilities	Bandwidth Required (MHz)		
	Cable A	Cable B	Cable C-

PART V - PROPOSED FACILITIES

A. Trunk and Feeder Configuration

1. What are the frequency limits of the transmission band (or bands) in the trunk and feeder systems which will be activated initially, and within which Class I and/or Class II cable television channels could be carried in full compliance with all relevant technical performance standards of FCC Rules?

Cable A:

Trunk _____

Feeder _____

Cable B:

Trunk _____

Feeder _____

Cable C:

Trunk _____

Feeder _____

2. What are the frequency limits of the transmission band (or bands) in the trunk and feeder system initially activated which the Applicant proposes to utilize (or reserve) for distributing downstream to subscribers or other users the non-television signals listed in Part IV-F above?

Cable A:

Trunk _____

Feeder _____

Cable B:

Trunk _____

Feeder _____

Cable C:

Trunk _____

Feeder _____

3. (a) What are the frequency limits of the transmission band (or bands) in the trunk and feeder system initially activated which the Applicant proposes to utilize (or reserve) for upstream carriage of the NTSC television signals, if any, listed in Part IV-H above?

Cable A:

Trunk _____

Feeder _____

Cable B:

Trunk _____

Feeder _____

Cable C:

Trunk _____

Feeder _____

3. (b) If upstream NTSC television channels are proposed in Part IV-H above, can they be carried in full compliance with the technical performance requirements currently applicable to Class I Channels? (Note FCC does not now have standards applicable to upstream channels.)

☐

Yes

☐

No

3. (c) If "Yes," submit as Exhibit V-1 a comprehensive engineering brief in support of the claim, including such factors as envelope delay distortion, aggregate noise, and level stability, among others. Include a statement of the qualifications of the engineer preparing the brief, and any direct experience the Applicant may have with such operation.

4. What are the frequency limits of the transmission band (or bands) in the trunk and feeder system initially activated which the Applicant proposes to utilize (or reserve) for returning (upstream) to a hub or other central facility, the non-TV signals listed in Part IV-I above?

Cable A:

Trunk _____

Feeder _____

Cable B:

Trunk _____

Feeder _____

Cable C:

Trunk _____

Feeder _____

5. (a) If Cable B or C is proposed, will it be fully energized at the time of initial construction?

Cable B: _____ Yes _____ No

Cable C: _____ Yes _____ No

5. (b) If "No" in either case, state what portions of each cable will be activated initially, and when or under what circumstance additional cable will be activated:

6.(a) For purposes of this proceeding, the "standard" frequency channelling plan for carriage of NTSC television channels on trunk and feeder cables is considered to be as follows:

<u>Channel Identifier</u>	<u>Frequency Boundaries MHz</u>	<u>Channel Identifier</u>	<u>Frequency Boundaries MHz</u>	<u>Channel Identifier</u>	<u>Frequency Boundaries MHz</u>
2	54-60	H	162-168	M	234-240
3	60-66	I	168-174	N	240-246
4	66-72	7	174-180	O	246-252
5	76-82	8	180-186	P	252-258
6	82-88	9	186-192	Q	258-264
A	120-126	10	192-198	R	264-270
B	126-132	11	198-204	S	270-276
C	132-138	12	204-210	T	276-282
D	138-144	13	210-216	U	282-288
E	144-150	J	216-222	V	288-294
F	150-156	K	222-228	W	294-300
G	156-162	L	228-234		

The standard assignment of the various carriers and sub-carriers within each channel is set forth in FCC RR 73.682(a) and 76.605(a).

6. (b) Will all downstream and return television channels be carried on the proposed trunk and feeder system in accordance with the above channelling plan, and with the normal carrier assignments within the channel as set forth in FCC Rules?

☐

Yes

☐

No

6. (c) If "No" in any respect, explain in Exhibit V-2, describing in detail how the non-standard channels will be received by subscribers and other users. (This question refers to harmonically related, or constant interval assignments, inverted order of sub-carriers, suppressed carriers, or any other non-standard assignment plan.)

7. (a) How many route miles of cable plant does Applicant propose to be constructed within four years following grant by FCC of Certificate of Compliance? (Include "shadow" plant not energized initially.)

	Route Miles		
	Aerial	Underground	Total
Cable A			
Cable B			
Cable C			

7. (b) Does Applicant propose to construct any portion of Cable B or Cable C along routes other than the routing of Cable A?

☐

Yes

☐

No

7. (c) If "Yes," explain:

7. (d) What is the source of the above mileage estimates?

Strand map survey

Percentage of street mileage
from City records

%

Probable routing wheeled on
City map by Applicant

Estimate by Applicant

Other (explain)

Antenna Site Equipment for Off-Air Reception

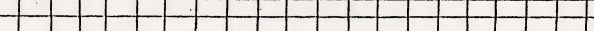
1. How many separate sites are proposed for reception of television broadcasting station signals? (Include signals relayed by microwave.)

Number of Proposed Antenna Sites _____

2. Indicate on Table V-1 the location and type equipment proposed for each antenna site, including those which are, or would be, owned or directly controlled by Applicant and used with a microwave relay system. Use a separate table for each antenna site, if more than one is proposed. Indicate on the table, by channel number, each broadcasting station received at each antenna site.

Table V-1
Site Identification : _____
Site Location _____

Off-Air Channel Numbers of Stations Received

[illegible][illegible][illegible][illegible][illegible]

Heterodyne Proc.
Strip Amp-W/AGC
Strip Amp-WO/AGC
Demodulator
Microwave Trans.-FM
Microwave Rec.-FM
Microwave Trans.-LDS
Microwave Rec.-LDS
Modulator

* Do not include UHF to IF converters which are integral with processors.

3. (a) List below any TV broadcasting station signals which will be received on antennas and associated equipment owned or controlled by others, such as a microwave common carrier, or shared expense CARS.

TV Station		Location of Receiving Site (See Note 1)	Antenna System Owned by	Arrangement for use of Facilities (See Note 2)
Call Letters	Channel Number			

Note 1: State airline distance and direction to site from the center of the franchise area. If the receiving site is not now in existence, and has not yet been selected, so indicate in the space provided.

Note 2: Indicate whether by common carrier contract, signal purchase agreement, shared expense CARS, etc.

3. (b) Give name and address of each microwave common carrier and CARS microwave system licensee with which Applicant has, or proposes, an arrangement for service.

4. Submit, as Exhibit V-3, a map or maps showing the location of each proposed antenna site, if known, including those owned by Applicant and by others. (May be combined with the map exhibit requested in Part V-C-2 below.)

Hub Interconnection

1. How many distribution hubs (if more than one) are proposed?

_____ Number of Hubs

2. Submit, as Exhibit V-3, a map, or maps, showing the hub interconnections, both downstream and return, if relevant. (May be combined with the map exhibit requested in Part V-B-4 above.)

- 3.(a) Indicate below the type of hub interconnection facilities proposed: (Check one or more boxes as appropriate.)

	For Cable A		For Cable B		For Cable C	
	Down-stream	Return	Down-stream	Return	Down-stream	Return
Coaxial Cable						
LDS Microwave						
CARS FM Microwave						
CARS AM Microwave						
Common Carrier Microwave						

Note: If the proposed hub interconnection facilities are not adequately described above, describe fully below:

3.(b) If coaxial cable is proposed for hub interconnection, provide the following data:

Frequency band limits
Number of TV channels
Frequency band assigned for non-TV signals (data, audio)
Maximum length

Downstream	Return

3.(c) If microwave is proposed for hub interconnection, provide the following data

Number of TV channels
Bandwidth available for data, FM radio, etc.
Manufacturer
Transmitter rated power output
Transmitting antenna gain
Receiving antenna gain
Longest Path Length

Downstream	Return

Note: The above information is requested to indicate the type and quality of microwave facilities, and will in no way inhibit a grantee from providing equal or better facilities of different size or manufacture.

D. Hub Channel Exchange

1. Does the proposed system provide the capability for connecting television channels selectively between downstream and upstream transmission paths at distribution hubs?

_____ Yes _____ No

2. If "yes", provide full details in Exhibit V-3 including schematic or block diagrams, and the type and specifications of equipment proposed, how the equipment will be used to provide selective interconnection capability, and a statement as to the availability of such equipment.

E. Subscriber Interface Equipment

1. Will every subscriber outlet, or other user outlet, be supplied by the Applicant with a converter or switch interface device at the time of initial connection?

_____ Yes _____ No

2. If "No," explain below the circumstances and timing under which converters or switches would be used, if any.

3. If "Yes," provide the following information with respect to the interface device to be supplied by the Applicant:

Interface Type:

Channel-by-channel converter	<input type="checkbox"/>
Block converter	<input type="checkbox"/>
Dual switch	<input type="checkbox"/>
3-way switch	<input type="checkbox"/>

Ownership of Interface Devices:

Applicant	<input type="checkbox"/>
Subscriber/User	<input type="checkbox"/>
Other (explain briefly below)	<input type="checkbox"/>

Channel capacity of the converter:

_____ TV Channels

(Note: Ignore limitations imposed by direct pick-up or other problems external to the converter itself.)

Maintenance Facilities

1. Indicate in the following table the type of standby emergency electrical power facilities proposed, if any:

	Storage Battery System	Portable Generator	Permanently Installed Diesel/gas/propane engine-generator		Other (Describe)
			Manual Start	Auto. Start	
Antenna Site(s)					
Distribution Hubs (if any)					
Trunk power locations					
Studio					

2. (a) Will automatic, remote performance and status monitoring be installed at the start? ☐ Yes ☐ No

2. (b) Will specific test points be designated for manual performance monitoring purposes? ☐ Yes ☐ No

(i) If "Yes", how many? Number _____

(ii) Will the antenna site be a routine test point? ☐ Yes ☐ No

2. (c) How often will test points be checked?

2. (d) State the characteristics that will be checked at each test point:

_____	_____
_____	_____
_____	_____

2. (e) If the above do not fully describe the routine monitoring procedures proposed by Applicant, explain more fully below:

3. List the type and quantity of major items of test equipment proposed to maintain the cable system and microwave facilities. Use manufacturer's model number to indicate quality.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4. How does applicant propose to comply with the franchise requirements of Section V, Paragraph D, with respect to receiving trouble calls 24 hours a day, and providing repair service after normal hours, both for individual customer calls and major system outages?

5. State policy concerning maximum response time between a customer service call and repairman's first attempt to investigate or correct the trouble.

PART VI - NON-BROADCAST TELEVISION PROGRAMMING

- A. With respect to Part IV(E) (1), non-automated programming supply the following information:

Channel	Subscriber Level Activated	Total Hours/ Week	% Repeat	Source*

- * Identify the predominant source of programming material, e.g., locally produced, purchased, etc.
- B. In reference to (A) above, submit as Exhibit VI-1 a description of the types of programs (on a channel-by-channel basis) to be exhibited.
- C. What is the estimated annual operating cost for five years for producing and exhibiting the number of hours of programming noted in question (A). Do not include capital costs, but do include the proportionate applicable program production expenses noted in Schedule D, Part II. Appropriate copyright expenses should also be included, if applicable.

	Year 1	Year 2	Year 3	Year 4	Year 5
Salaries and Wages	_____	_____	_____	_____	_____
Selling Expense and Promotion	_____	_____	_____	_____	_____
Program Materials and Supplies	_____	_____	_____	_____	_____
Wire Services	_____	_____	_____	_____	_____
Mobile Van Expenses (if applicable)	_____	_____	_____	_____	_____
Maintenance and Technical Supplies	_____	_____	_____	_____	_____
Payment to Parent	_____	_____	_____	_____	_____
Other (Specify)	_____	_____	_____	_____	_____

Total

=====

- D. With respect to Part IV(E) (1), automated programming, supply the following information:

Channel	Subscriber Level Activated	Total Hours/Day	Type of Information	Source*

*e.g., wire service, National Weather Service, etc.

- E. What is the estimated annual operating cost for 5 years for generating and displaying the automated programming noted in question (D)? Do not include capital costs, but do include the proportionate applicable expenses noted in Schedule D, Part II.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Salaries and Wages	_____	_____	_____	_____	_____
Selling Expense and Promotion	_____	_____	_____	_____	_____
Program Materials and Supplies	_____	_____	_____	_____	_____
Wire Service	_____	_____	_____	_____	_____
Mobile Van Expenses (if applicable)	_____	_____	_____	_____	_____
Maintenance and Technical Supplies	_____	_____	_____	_____	_____
Payment to Parent	_____	_____	_____	_____	_____
Other (Specify)	_____	_____	_____	_____	_____
 Total	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

F. With respect to Part IV(D) (1), describe, as Exhibit VI-2, the nature of system assistance in fostering the utilization of access channels. If more than one educational, one public, and one local government access channel is proposed, be very specific in detailing the usage of these extra channels, submitting evidence of a firm commitment by appropriate authorities to utilize them. Also, as part of Exhibit VI-2, detail the operating rules (per FCC regulations) that will be utilized for the public and educational access channels.

G. What are the anticipated annual production facilities charges for each access channel for the first 5 years of system operation?

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Public Access (after first 5 min.)	_____	_____	_____	_____	_____
Educational Access	_____	_____	_____	_____	_____
Governmental Access	_____	_____	_____	_____	_____
 Total	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

H. What is the estimated annual expense for five years for supplying assistance in the utilization of the access channels noted in Exhibit VI-2?

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Personnel	_____	_____	_____	_____	_____
Other (Specify)	_____	_____	_____	_____	_____
 Total	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Explain, as Exhibit VI-3, the methods or procedures the Applicant recommends or proposes to assure that the CATV services offered and the utilization of the public access and cablecasting channels reasonably conforms with the needs and interests of the community, both at large and with specific reference to various distinctive minority groups within the community. The Applicant should address itself specifically to methods for continuously ascertaining needs, including minority views, as well as to possible participation by community representatives in determining both need and programming content.

PART VII - MANAGEMENT EXPERIENCE

A cable television system serving Fort Wayne will be an undertaking of significant magnitude, requiring technical expertise, financial acumen, and marketing skill.

Perhaps the single most important determinant of the system's progress will be management. Therefore, as Exhibit VII, applicants are required to narrate the management experience and ability which in their opinion qualifies them to operate a CATV system in Fort Wayne. The narrative form is purposely unrestricted and undefined to give the applicant wide latitude to respond.

PART VIII - APPLICANTS STATEMENTS

A. Declaration that application is true and complete.

B. Declaration that the applicant agrees to comply with the Cable Communication System Specifications for Fort Wayne, Indiana,

C. Declaration that the applicant will abide by the City's decision so far as the granting of or the failure to grant, permission to operate a Cable Communications System in Fort Wayne, Indiana, is concerned.

D. Declaration that if a Certificate is granted by the City, the applicant will within thirty days fully comply with the requirements of the Federal Communications Commission by filing such documents as the agency may require.

E. Statement by the applicant that he will upon proper request by the City, provide such other facts as may serve to reflect upon the materiality of the application, quality, character and ability of the applicant, its affiliates, parents of subsidiaries.

F. Applications shall be signed by a person authorized lawfully to do so, the signature verified, and shall be accompanied by appropriate oaths where oaths of individuals are required, and by an oath of the person signing that the information contained is true to the best of his knowledge, information and belief.

XIV. APPLICATIONS

For Fort Wayne Cable Communications System
(Format)

APPLICATIONS

Applicants shall submit 25 copies of his proposal on plain, white paper, 8 1/2 by 11 inches in size, typed, double-spaced and suitably stapled or bound, including all information, schedules proposals, signatures, and verifications. Applications will be limited to 200 pages excluding the appendix.

All applications shall have the following format:

CHAPTER I

This chapter shall contain the following information:

1. Name of Applicant;
2. Name of principal officers, partners with titles, etc;
3. Names of all stockholders and part of stock owned, partners (both general and limited), or individuals;
4. Names and addresses of Board of Directors; and
5. Brief survey of capital structure of corporation.

CHAPTER II

This chapter will contain a brief resume of the applicant's experience and technical expertise in the field of cable television systems.

CHAPTER III

This chapter will contain a description of the method proposed for financing the construction and operation proposed herein and include all information necessary to reflect the financial ability of the applicant.

Some applicants or their affiliates may have applied for franchises in other cities and since such commitments have a bearing on the financial ability of such applicants, a list of any such applications and funds which may have been committed or promised for constructing these systems should be supplied.

Additionally, this chapter will contain information as to the ownership of other media facilities including other cable systems, radio stations, television stations, and newspapers, by the corporation, partnership, or individual or any members thereof.

CHAPTER IV

This chapter will contain employment and personnel policies both present and proposed for the Fort Wayne Cable Communications System.

CHAPTER V

Proposed management structure for Fort Wayne Cable Communications System with names, qualifications, and addresses.

CHAPTER VI

ASCERTAINMENT OF COMMUNITY PROBLEMS AND NEEDS

This chapter should contain information derived by the applicant during interviews with local community leaders and members of the general public. It is up to the applicant to determine the extent to which his ascertainment is made but as many significant groups as possible, including minority, ethnic, students, and other groups, should be interviewed to determine the nature and extent of any local problems, whether minor or major and whether cable communication related or not. Names of interviewees will be attached to the appendix.

The interviews with leaders of the community are to be made by management level personnel of the applicant, with particular emphasis on those who will manage the Fort Wayne system, if successful.

The interviews with the general public may be conducted by any method the applicant deems appropriate (i.e., mail questionnaire,

telephone survey, personal interview, etc.) but in any case the method used should be explained in this chapter.

It is the intent of this chapter to require the applicants to become acquainted with the unique problems encountered in the City of Fort Wayne as well as involve as many citizens as possible in the selection process. Additionally, it is the intent here to give the applicant a basis for any proposal for his facilities as he may deem necessary.

CHAPTER VII

APPLICANT'S RECOMMENDATIONS

Part A. Based on the information gathered in the previous chapters, applicant will explain how its operation will help alleviate and solve some of these problems previously discovered.

Part B. Applicant's proposal for handling subscriber service, adjustment and complaints should be included at this point.

Part C. This part will contain any other recommendations, outside those previously listed, that applicant proposes for the Fort Wayne System.

Part D. It is the intent that the applicant will make recommendations in his proposal as to facilities, hiring

practices, technical recommendations and any other recommendations which result from the ascertainment previously obtained.

Part E. It is in this chapter that the applicant would propose such things as a hub concept radiating from various school districts to surrounding homes, any special College, School, or University arrangements for programming or distribution, a color film chain to be located at the public library's film department, a central film bank for school system films, or any other innovative proposal. This chapter will carry considerable weight in the selection process.

CHAPTER VIII

This chapter will contain the proposed construction and installation schedules of the Fort Wayne Communications System, along with approximate capital cost.

CHAPTER IX

Proposed office location, studio facilities, studio equipment, and personnel to be used and this should include the approximate

number of personnel as opposed to their names, and should give the title of each.

CHAPTER X

This chapter should contain proposed rates for subscriber services, and any other cost including that of auxiliary services that may be incurred by a subscriber. It is understood that many of these services and the cost thereof are unknown at the time, however, insert approximate range of rates in this respect. This chapter should contain the basic subscriber rate, the cost of additional outlets and the cost, if any, of an AB switch or a converter, whichever you propose, and any other rates as previously described. A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber should be made a part of this application.

CHAPTER XI

This chapter will contain any proposed two-way and auxiliary services, including pay tv plans that the applicant may have. A detailed statement setting forth in its entirety any and all

agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which may materially relate or pertain to or depend upon the application and the granting of the franchise should be made.

CHAPTER XII

Proposed public access, governmental, and program origination plans for the Fort Wayne Cable Communications System.

CHAPTER XIII

This chapter will contain the proposed signal carriage and channel utilization of the applicant for a 20+ channel system. A dual trunk-single distribution system is recommended. However, if an applicant can provide a strong showing for any other type system that will best meet the needs of the community and best serve the public interest then the Common Council and Board of Works will consider that proposed system equally with the dual trunk system.

CHAPTER XIV

This chapter shall contain a description of the Cable Communications System proposed to be installed and operated,

including such detail as may permit a proper evaluation of the merits of the entire proposal. This chapter should contain the basic description and any minor details should be referenced to and should be included in the appendix. A detailed, informative and referenced statement describing the actual equipment and operational standards proposed by the applicant should be part of this chapter. In no event shall said operational and performance standards be less than those contained in Title 47, Subpart K (Sections 76.601 et seq.) Rules and Regulations, Federal Communications Commission adopted February 12, 1972, and as amended.

CHAPTER XV

APPLICANTS STATEMENTS

- A. Declaration that application is true and complete.
- B. Declaration that the applicant agrees to comply with the Cable Communication System Specifications for Fort Wayne, Indiana.
- C. Declaration that the applicant will abide by the City's decision so far as the granting of or the failure to grant, permission to operate a Cable Communications System in Fort Wayne, Indiana, is concerned.

D. Declaration that if a Certificate is granted by the City, the applicant will within thirty days fully comply with the requirements of the Federal Communications Commission by filing such documents as the agency may require.

E. Statement by the applicant that he will upon proper request by the City, provide such other facts as may serve to reflect upon the materiality of the application, quality, character and ability of the applicant, its affiliates, parents of subsidiaries.

F. Applications shall be signed by a person authorized lawfully to do so, the signature verified, and shall be accompanied by appropriate oaths where oaths of individuals are required, and by an oath of the person signing that the information contained is true to the best of his knowledge, information and belief.

APPENDIX

The appendix will be contained in a separate document and shall contain any other pertinent information as may be deemed appropriate by the applicant concerning any phase of the application or operation process. The appendix may contain anything applicant deems necessary for his proposal. Information contained herein may be referenced to from one of the previous chapters. The appendix

may also contain such detail of construction as the applicant would recommend.

Each application shall be accompanied by a filing fee in the amount of TEN THOUSAND DOLLARS (\$10,000.00) which shall be made payable to the Controller of the City of Fort Wayne, Indiana.

Any person may file an application for a franchise upon payment of the prescribed fee.

The entire application fee received from a successful applicant, together with such portions of other applicant's fees as are not refunded shall be credited to the General Fund of the City for the purpose of investigation of the Cable Communications Systems Certificate applications and for establishing the procedures for the Cable Communications Systems regulations.

In the event the determination costs exceed the said TEN THOUSAND DOLLARS, the overage will be assessed on a pro-rata basis among unsuccessful applicants but in no case will the assessment be greater than ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) per applicant; (i.e., each unsuccessful applicant is guaranteed of receiving a minimum of EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00) refund). Refunds to unsuccessful applicants will be made within thirty (30) days of granting the franchise.

Applications for this franchise will be received until 2:00 o'clock P.M. September 1, 1977. Applications should be in a sealed container and will not be opened until after the above date.

In addition to the previously mentioned contents and chapters to be included in this application, the applicant shall include the following:

- (a) Any request for disclosure of any information whatsoever from any City Councilman or public official with regard to the granting of this franchise;
- (b) Any objections to the applicant selection process to be followed by the City of Fort Wayne as set out in this document;
- (c) A statement to the effect that the applicant understands that if he does not herein present any objections as set out in (a) and (b) above, he hereby waives the right to make these objections at a later date following the filing of this application.

(It is the City Council's intention in this regard to prevent any future misunderstandings between any applicants and the City of Fort Wayne which could result in litigation and delay the commencement of construction of the cable television system.)

Applications are to be delivered to:

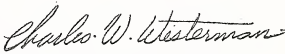
Board of Public Works
9th Floor
City County Building
One Main Street
Fort Wayne, Indiana 46802

AMENDMENT CERTIFICATION

I, Charles W. Westerman, duly elected City Clerk of Fort Wayne, Indiana, and Clerk of the Common Council of the City of Fort Wayne, Indiana, do hereby certify that on July 26, 1977, in Regular Session of the Common Council Bill No. G-77-04-19 (AS AMENDED), and Ordinance No. G-27-77 was legally amended by the Common Council through a motion made by Hinga, Councilman, and seconded by Hunter, Councilman. Said Amendment was voted to amend Ordinance No. G-27-77 by a vote of:

Ayes: (9) Nine
Total:
Talarico, Burns, Hinga, Hunter, Moses, Nuckols, D. Schmidt, V. Schmidt, Stier,
Nays:
Total:

Amended and attested on
this date 7-26-77


Charles W. Westerman
Clerk of the City of Fort Wayne
& Clerk of the Common Council

The attached amendments to Bill No. G-77-04-19 (as amended) were adopted in Committee, and voted and adopted on July 26, 1977, in Regular Session of the Common Council of Fort Wayne, Indiana.

Page 4, II. (j) expand definition as indicated.

Page 5, II. Add sub-paragraph (o).

Page 5, III. A. Substitute the word "streets" for "public ways."

Page 8, III. D. (9) (c) Substitute "residential dwelling units" for "homes" and expand as indicated.

Page 9, III. D. (9) (d) Delete second sentence of this sub-paragraph.

Page 10, Line 5 by adding -- or fails to comply with commitments made in the franchise application.

Page 12, IV. D. Amend as indicated.

Page 12, IV F. Amend as indicated.

Page 12, IV. G. Amend as indicated.

Page 14, V.A. Add sub-paragraph (3)

Page 15, V.B. Add sub-paragraph (6)

Page 17, V.E. (1) Amend as indicated.

Page 17, V.D. Add Sub-paragraph (4)

Page 18, V.F. Delete F. and reletter G., H. and I.

Page 19, V. New G. (2) Amend as indicated.

Page 20, V. New H. Amend as indicated.

Page 23, VI. C. Delete all after word "television."

Page 24, VII. B. (1) Change to "updated quarterly."

Page 25, VII. B. (2). Change 1% to 5%

Page 25, VII. B. (4) Change "each" to "The"

Page 25, VII. C. Change as indicated.

Page 28 - Line 16 by adding -- to comply with Federal Communications Commission's or other higher regulatory agencies' rules and regulations

Page 32, VII. M. Add as indicated to the last sentence.

Pages 32 and 34, VII. O. Amend as indicated.

Page 37, VII. R. (1) (c) Substitute "system" for "network."

Page 38, VIII. A. (1) Substitute "receipts" for "revenue."

Page 38, VIII. B. Add sentence indicated.

40 41
Pages ~~39~~ and ~~40~~, Delete paragraphs E., F., G., J., and K. Substitute paragraphs indicated.

Page 41 -- Line 8 -- Striking out. --- "the Board of Works."

43
Page ~~42~~, X. G. Delete everything after the word "identified."

46
Page ~~43~~, X. A. (2) Delete this paragraph and renumber those following.

48 49
Pages ~~47~~ and ~~48~~, XI. C. Delete points. Change sentence after criteria
50 as indicated.

Page ~~49~~ XII. A. Amend as indicated.

Page 53. APPLICATION FORMAT - Substitute complete new Section XIV.

Page 79 Adding Two (2) Columns - Date construction started and Date construction completed.

INSTRUCTIONS FOR FILING AN APPLICATION
FOR A CABLE TELEVISION SYSTEM FRANCHISE
IN FORT WAYNE, INDIANA

1. All applications must be made on the Application Form. All questions must be answered on the form provided. Where the answer space is found to be inadequate, the form may be retyped to provide additional space as needed. All exhibits called for in the application constitute Appendix A.
2. Applicants may submit, as Appendix B, any additional germane material not required by the Application Form which the Applicants feel will be helpful to the City or its consultant in the selection process.
3. Applications not properly signed and executed will not be accepted for consideration. Applications (exclusive of appendices and unnumbered pages) may not be longer than two hundred (200) pages.
4. Should any applicant be in doubt with respect to the meaning of any part of the application, or section thereof, or should any discrepancy or omission be discovered in the Application Form, the applicant should expeditiously inform the Board of Public Works. Should it be deemed necessary by either the Board of Public Works or the City's consultant, a bulletin of correction or explanation will be sent to all applicants. In any event, all questions pertaining to any facet of the application process will only be accepted in written form by the Board of Public Works, and, further, Fort Wayne assumes responsibility for its written response only.
5. Substantive amendments will not be considered except to acknowledge involuntary changes such as a change in ownership due to death. Correction of inadvertent errors submitted prior to the filing deadline will be considered. Correction of inadvertent errors submitted after the filing deadline may be considered, at the discretion of the City or its consultant, if the applicant submits with its correction sufficient information to prove that the error was inadvertent. Additional information or data may be requested by the City or its consultant if, in their judgment, this would aid in preparing a fair and accurate analysis.

XIV. APPLICATIONS

Applications for a cable television franchise to construct and operate a cable television system within the City of Fort Wayne shall be prepared in accordance with the advice contained in the instructions herein. One original and twenty-four (24) copies of the application shall be received in the Office of the Board of Public Works, Room 910, City-County Building, One Main Street, Fort Wayne, Indiana 46802, no later than 2:00 p.m. on October 26, 1977. One original and five (5) copies of the appendices shall accompany the application. It should be noted that applications submitted after this date and time cannot be accepted.

Each application shall be accompanied by a filing fee in the amount of TEN THOUSAND DOLLARS (\$10,000) which shall be made payable to the Controller of the City of Fort Wayne, Indiana.

Any person may file an application for a franchise upon payment of the prescribed fee.

The entire application fee received from a successful applicant, together with such portions of other applicants' fees as are not refunded shall be credited to the General Fund of the City for the purpose of investigation of the Cable Communications Systems Certificate applications and for establishing the procedures for the Cable Communications Systems regulations.

In the event the determination costs exceed the said TEN THOUSAND DOLLARS, the overage will be assessed on a pro-rata basis among unsuccessful applicants but in no case will the assessment be greater than ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) per applicant; (i.e., each unsuccessful applicant is guaranteed of receiving a minimum of EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00) refund). Refunds to unsuccessful applicants will be made within thirty (30) days of granting the franchise.

	<u>Amount</u>	<u>Terms</u>
Name		
Name		
Name		
Name		
Name		

d. Individuals:

2. Submit letters of commitment from each proposed lender listed above setting forth his commitment to make the indicated loan contingent only on the grant of franchise (Exhibit III-2)

c. Other Cable Television Interests

1. Existing Systems

List below information concerning existing cable television systems in which the Applicant or Parents listed in Part I at Levels 1, 2, or 3 have 25% or more ownership interest.

Name of Business Entity at Level 0, 1, 2 or 3	Number of Existing Systems (25% or more ownership)	Date Franchise Awarded	Homes Passed	Route Miles Completed	Route Miles of Extension and Rebuild to be Completed by 1980

(continued)
Note Contingent on Letter
Contingent on Letter
Note Contingent on Letter
542

J. The procedure for a change of rate shall be as follows:

(1) The Franchisee shall advise the Board of Public Works and the Common Council of a proposed change in rates.

(2) In the absence of notification from the Board of Public Works or Common Council, the rate change may take effect at the end of sixty (60) days.

(3) ~~If the Board of Public Works~~ the Common Council believes that there should be a review of the rate change prior to its adoption, the Franchisee and the general public shall be given notice within twenty (20) days that the Common Council has scheduled a hearing on the change.

(4) Notice to the general public will be given between the hours of 7:00 p.m. and 9:00 p.m. for five (5) consecutive days on the channels of the cable system and written comments may be filed by any interested parties within thirty (30) days from the final date of the notice.

(5) The Common Council will advise the Franchisee of its decision on the requested rate change within fifteen (15) days of the public hearing. The Franchisee shall be allowed to increase its rates if it can demonstrate to the Common Council's satisfaction that they cannot make a fair return on their investment without a rate increase,

service or shall permit the Franchisee to perform any service in conflict with the terms of this franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, the Franchisee shall notify the Mayor or the Board of Public Works of the point of conflict believed to exist between such regulation of law and the laws or regulations of the City or this franchise.

(2) Franchisee shall be subject to all City ordinances as set forth herein and Franchisee shall also be subject to all applicable rules and regulations which, from time to time, may be promulgated by the Federal Communications Commission for Cable Communications Systems including that for CATV.

(3) If the Common Council determines that a material provision of this ordinance is affected by such subsequent action, the Common Council shall have the right to modify any of the provisions herein to such reasonable extent as then be necessary to carry out

the full intent and purpose of this ordinance *to comply with Federal or other higher regulatory agencies rules and regulations*

F. Preferential or Discriminatory Practices Prohibited.

The Franchisee shall not as to rates, charges, service facilities, rules, regulations or any other respect make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection and service charges may be waived or modified during promotional campaign of the Franchisee.

- pursuing such authorization and determination and the delay is not caused by any fault of the Franchisee or results from strikes, natural disaster, or other occurrences over which the Franchisee would have no control; or *failed to comply with ~~commitment~~ made in the franchise application*
- (d) Fails to maintain the Cable Communications System so as to be within the Federal Communications Commission Rules and Regulations with regard to technical standards adopted now or as may be in the future. *[initials]*
- (e) If, as a result of a dispute between the Company and the City and prior to a settlement of that dispute as provided herein, the Company arbitrarily or capriciously discontinues service to its subscribers, the Company shall forfeit its rights of notice and a hearing as provided herein, and the Common Council may, by resolution, declare the Company franchise immediately terminated and the City shall, forthwith, seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for herein.

(10) If this franchise is terminated by the Common Council by reason of the Franchisee's default, that part of the system located in the streets shall, at the election of the City, become the property of the City at a cost not to exceed its then fair market value according to generally accepted accounting principles, with a reduction for damages, if any, incurred by the City in connection

BILL NO. G-77-04-19

GENERAL ORDINANCE NO. G-77-04-19

AN ORDINANCE providing for the establishment of a Cable Communications System in the City of Fort Wayne.

WHEREAS, the City of Fort Wayne does not have a Cable Communications System and it appears desirable to provide such a facility for the use and benefit of the City of Fort Wayne; and

WHEREAS, the Federal Communications Commission of the United States Government has provided that municipal corporations shall establish and control such facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT WAYNE:

SECTION 1. The Council of the City of Fort Wayne does hereby propose to establish a Cable Communications System in the City of Fort Wayne granting a non-exclusive franchise to construct and operate such a system.

SECTION 2. That the Council of the City of Fort Wayne does hereby approve, adopt and ratify the Fort Wayne Cable Communication System Specifications, a copy of which is attached hereto and made a part hereof by reference in its entirety.

SECTION 3. That this ordinance shall take effect from and after its passage and approval by the Mayor.

Councilman

Page 4, II. (j) expand definition as indicated.

Page 5, II. Add sub-paragraph (o).

Page 5, III. A. Substitute the word "streets" for "public ways."

Page 8, III. D. (9) (c) Substitute "residential dwelling units" for "homes" and expand as indicated.

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Page 14, V. A. Add sub-paragraph (3)

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Page 32, VII. M. Add as indicated to the last sentence.

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Page 38, VIII. B. Add sentence indicated.

Pages 39 and 40, Delete paragraphs E., F., G., J., and K. Substitute paragraphs indicated.

Page 43, X. G. Delete everything after the word "identified."

Page 43, X. A. (2) Delete this paragraph and renumber those following.

Pages 47 and 48, XI. C. Delete points. Change sentence after criteria as indicated.

Page 49, XII. A. Amend as indicated.

APPLICATION FORMAT - Substitute complete new Section XIV.

FORT WAYNE CABLE COMMUNICATIONS SYSTEM

SPECIFICATIONS

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CABLE COMMUNICATIONS SYSTEM FOR FORT WAYNE, INDIANA

I. PURPOSE OF THE ORDINANCE AND NATURE OF THE GRANT.

A. An ordinance establishing the selection procedure for the granting of a non-exclusive franchise to construct, operate, and maintain a Cable Communications System in the public ways of the City of Fort Wayne; and providing for the specifications, procedures, standards for the same and providing for the regulations of said system; and providing for the payment to the City for the privilege of said franchise.

B. It is the purpose and intent of this ordinance to provide for the City of Fort Wayne a Cable Communications System which will serve present and future needs of government, public institutions, commercial enterprises, lawful public and private organizations, and the citizens and general public of Fort Wayne. Said system in its establishment, construction, operation, maintenance, and regulation shall be subject to and in compliance with all pertinent laws, rules, regulations, orders, and policies of the Federal Communications Commission and the State of Indiana.

C. Recognizing the fluid state of the development of communications technology and related arts and sciences, it is

further the intent of the City of Fort Wayne to encourage experimentation in the development of uses, services, programming, and techniques, provided, however, that all such experiments and innovations shall be subject to the Federal Communications Commission Rules and Regulations and all other laws, ordinances and standards of ethical conduct for the industry.

II. DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

(a) "City" shall mean the City of Fort Wayne, Allen County, Indiana, a municipal corporation of the State of Indiana, in its present incorporated form or any later reorganized, consolidated, enlarged or reincorporated form.

(b) "Common Council" shall mean the legislative body of the City of Fort Wayne, Indiana or any future board constituting the legislative body of the City.

(c) "Converter" means an electronic device which converts voltages or signals on one frequency to voltages or signals on another frequency.

(d) "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area of the City. Any such authorization, in whatever form granted, shall not be deemed to include any license or permit required for the privilege of transacting and carrying on a business within the City.

(e) "Franchisee" shall mean the person, firm or corporation granted a franchise under this ordinance, and the lawful successor, transferee or assignee of said person, firm or corporation.

(f) "Street" shall mean the surface, the air space above the surface and the area below the surface of the right of way of any public street, any public right of way or public place, including public utility easements.

(g) "Subscriber or User" shall mean any person or entity receiving for any purpose any service of the Franchisee's Cable Communication System including, but not limited to, the conventional cable television system service of retransmission of television broadcast signals, radio signals, Franchisee's original cable-casting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television, and police, fire, similar public service communication.

(h) "Cable Communications System" for the purpose of this ordinance, is a term describing the system employing conductors, equipment or facilities, designed, constructed or used for the purpose of:

- (1) Collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
- (2) Transmitting original cable-cast programming not received through television broadcast signals;
- (3) Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers;
- (4) Transmitting and receiving all of the signals: digital, voice, and audio/visual;

Provided, however, that any of the services permitted hereunder to be performed, as described above shall be those performed by the

Franchisee for subscribers, as herein defined, located within the City limits of Fort Wayne, in the operation of a Cable Communications System franchised by the City and not otherwise.

(i) "Gross Receipts" as used in the following categories, shall mean any and all compensation, in whatever form, grant subsidy, exchange, or otherwise, directly or indirectly received by a Franchisee, not including any taxes or services furnished by the Franchisee imposed directly on any subscriber or used by a City, county, state or other governmental unit, and collected by the Franchisee for such entity.

(j) "Gross Subscriber Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the Franchisee from subscribers in payment of the regularly furnished service of the cable television system in the transmission of broadcast television, radio signal and original cable cast programming of the Franchisee.

(k) "Gross Auxiliary Service Receipts" shall mean any and all compensation and other consideration received directly or indirectly by the Franchisee from subscribers or users in payment of the receipt of signals other than broadcast television, radio or original cable cast programming of the Franchisee, whether for "pay television", "facsimile" transmission, "return" or "subscriber response communication", and whether or not transmitted encoded or processed to permit reception by only selected subscribers.

(l) "Gross Annual Lease Receipts" shall mean any fees or income received by the Franchisee for the lease or rental, and compensation for any service connected herewith, such as studio and equipment rental and production costs of any channel permitted or designated by the Federal Communications Commission to be so leased or rented.

(m) "Service, Basic and Auxiliary"

- (1) "Basic service" means the simultaneous deliver by the Franchisee to television receivers (or any suitable type of audio-video indication receivers), of all subscribers and to all locations in the City of all signals of over-the-air television broadcasters required by the Federal Communications Commission to be carried by a cable television system as

defined by the Federal Communications Commission; the channels designated for special purposes by the City Council; Educational Channels, Public Access Channels; Leased Channels; and additional service at the option of the Franchisee; however, pay or subscription television as defined by the Federal Communications Commission shall not be considered part of the basic service.

- (2) "Auxiliary service" means any communication service other than basic service, provided over its system by the Franchisee directly or as a carrier for its subsidiaries, affiliates or any other person engaged in communications services including, by way of example but not limited to, burglar alarms, data or other electronic intelligence transmission, facsimile reproduction, meter reading, and home shopping.

(n) "Two Way Capability" means the subscriber or any other location shall have the capability to choose whether or not to respond immediately, or by sequential delay utilizing any type of terminal equipment whatever, by push button code, dial code, meter, voice, video signal, or by any other means, including but not limited to any type of electronic, audio and video, electrical or mechanically produced signal, display and/or interrogation.

III. LENGTH, TERMINATION AND TRANSFER OF FRANCHISE

A. The successful applicant as determined by the procedure established herein shall be granted a franchise by the City of Fort Wayne. Said franchise shall be non-exclusive and shall convey the right to construct, operate, and maintain a Cable Communications System within the public ways of the City of Fort Wayne for a period of fifteen (15) years from the effective date of the granting ordinance. The granting of said franchise shall be approved by Common Council by the adoption of an ordinance incorporating this ordinance as a part of the franchise.

B. Franchisee is obligated to obtain pole space and other facilities from the City, utilities, and other lawful users of the public ways at its own expense and cost.

C. Upon the termination of this original fifteen-year grant period the Franchisee may renew its franchise for an additional period, subject to Board of Works approval and not inconsistent with the Federal Communications Commission Rules and Regulations and subject to approval by the Common Council. The existing Franchisee at the time this option becomes renewable will have priority over all other applicants, provided it can show that the system has been operated in the public interest.

D. Termination.

(1) The City may terminate any franchise granted pursuant to the provisions of this ordinance in the event of the willful failure, refusal or neglect by the Franchisee to do or comply with any material requirements or limitation contained in this ordinance, or any material rule or regulation of the Common Council validly adopted pursuant to this ordinance.

(2) The Mayor or the Board of Public Works may make a written demand that the Franchisee do or comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal, or neglect of the Franchisee continues for a period of thirty days following such written demand without

written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Mayor or the Board of Public Works may place request for termination of the Franchise upon the next regular Common Council meeting agenda. The Mayor or the Board of Public Works shall cause to be served upon such Franchisee at least ten (10) days prior to the date of such Common Council meeting, a written notice of the intent to request such termination and the time and place of the meeting, notice of which shall be published by the City Clerk at least ten (10) days before such meeting in a newspaper of general circulation within the City.

(3) The Common Council shall consider the request of the Mayor or the Board of Public Works and shall hear any person interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the Franchisee was with just cause.

(4) If such failure, refusal or neglect by the Franchisee was with just cause, the Common Council shall direct the Franchisee to comply within such time and manner and upon such terms and conditions as are reasonable.

(5) If the Council shall determine such failure, refusal or neglect by the Franchisee was without just cause, then the City Council may, by resolution, declare that the franchise of such Franchisee shall be terminated and forfeited unless there be compliance by the Franchisee within such period as the City Council may fix.

(6) Termination and forfeiture of any franchise shall in no way affect the rights of the City under the franchise or any provision of law.

(7) In the event of the termination of any franchise granted hereunder, and until such time as the Company transfers to the City or to a new grantee possession and title to all assets, real and personal, related to its cable television system, the Company shall, as trustee for its successor in interest, continue to operate the cable television system under the terms and conditions of this franchise and to provide the regular subscriber service and any and all of the services that may be provided at that time. During such interim period, the Company shall not make any material, administrative or operational change that would tend to (1) degrade the quality of service to the subscribers, (2) decrease income, or (3) materially increase expenses without the express permission, in writing, of the City or its assignee.

(8) For its management services during this period of trusteeship, the Company shall be entitled to receive as compensation, the net profit, generated during the period between the date the Company received written notice from the City of its intent to purchase the cable television system or the expiration date of the franchise, whichever is earlier, and the payment of the purchase price. Such management services shall not be continued without the Company's consent for more than twelve (12) months.

(9) In addition to all other rights and powers pertaining to the City by virtue of this ordinance or otherwise, the City reserves the right to terminate the franchise and all rights and privileges of the Franchisee hereunder in the event that the Franchisee:

- (a) Becomes insolvent, unable or unwilling to pay its debts, or it is adjudged a bankrupt; or
- (b) Attempts to evade any of the provisions of this ordinance or practices any fraud or deceit upon the City; or
- (c) Fails to have the service available to NINETY (90%) PERCENT of all the homes in all areas of the City, where there are at least fifty (50) homes per line mile within five (5) years after receipt of authorization from all required governmental agencies and acceptable pole attachment agreements have been obtained by Franchisee, but the franchise shall terminate if such authorization is not obtained within eighteen (18) months after the passage of this ordinance, but it is further provided that this period of eighteen months may be extended by the City if the Franchisee is diligently

pursuing such authorization and determination and the delay is not caused by any fault of the Franchisee or results from strikes, natural disaster, or other occurrences over which the Franchisee would have no control; or

- (d) Fails to maintain the Cable Communications System so as to be within the Federal Communications Commission Rules and Regulations with regard to technical standards adopted now or as may be in the future. It is the intent of this Common Council in this regard that the Franchisee diligently maintain the system so as to provide the best possible service the state-of-the-art will allow to the citizens of Fort Wayne.
- (e) If, as a result of a dispute between the Company and the City and prior to a settlement of that dispute as provided herein, the Company arbitrarily or capriciously discontinues service to its subscribers, the Company shall forfeit its rights of notice and a hearing as provided herein, and the Common Council may, by resolution, declare the Company franchise immediately terminated and the City shall, forthwith, seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for herein.

(10) If this franchise is terminated by the Common Council by reason of the Franchisee's default, that part of the system located in the streets shall, at the election of the City, become the property of the City at a cost not to exceed its then fair market value according to generally accepted accounting principles, with a reduction for damages, if any, incurred by the City in connection

with such termination. Such fair market value if not agreed upon, shall be determined by arbitration pursuant to the terms of this contract, but shall not include any valuation based upon this franchise. Damages incurred by the City shall include, without limitation, any payment made by the City pursuant to a resolution of the Council authorizing or directing another person to operate the system for a temporary period until a franchise therefor is granted.

E. Transfer and Assignments.

(1) The Franchisee operating under this ordinance shall not be permitted to sell, transfer, or otherwise change more than ten (10%) percent of the ownership herein granted without prior written consent of the Board of Works and Common Council of Fort Wayne. If, after five years the Franchisee would consider sale of more than ten (10%) percent or a transfer of control, then provided the transferee met the character, financial and experience criteria, established by the Federal Communications Commission and the Common Council of Fort Wayne, the consent of the Board of Works and Common Council of Fort Wayne would not be unreasonably withheld.

(2) The Franchisee operating under this ordinance shall not be permitted to sell, lease, transfer, sublease, or otherwise change working control of the franchise herein granted without prior

written consent of the Board of Works and Common Council of Fort Wayne. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the Board of Works and Common Council may inquire into the qualifications of the prospective controlling party, and the Franchisee shall assist the Board of Works and Common Council in any such inquiry. If the Board of Works does not schedule a hearing on the matter within sixty (60) days after notice of the change or proposed change and the filing of a petition requesting its consent, it shall be deemed to have consented. In the event that the Common Council adopts a resolution denying its consent and such change, transfer or acquisition of control has been effected, the Common Council may terminate the franchise as provided in Section III D, infra.

(3) The consent or approval of the Board of Works or Common Council to any assignment, lease, transfer, sublease, or mortgage of the franchise granted to the Franchisee shall not constitute a waiver or release of the rights of the City in and to the streets.

IV. FRANCHISE TERRITORY AND EXTENSION OF SERVICE

A. The franchise is for the present territorial limits of the City and for any area henceforth added thereto during the term of this franchise.

B. Upon the annexation of any territory to the City the right

and franchise hereby granted shall extend to the territory so annexed and all facilities owned, maintained or operated by the Franchisee located within, under, or over streets of the territory so annexed shall thereafter be subject to all terms hereof.

C. The Franchisee whenever it shall receive a request for service from at least ten (10) subscribers within one thousand five hundred (1,500) feet of its system shall extend such system to such subscriber at no cost to the subscriber for the system extension other than the usual connection fee for all subscribers. The one thousand five hundred feet shall be measured in extension lengths of Franchisee's cable required for service located within the public way or easement and shall not include the length of any necessary service drop to the subscriber's home or premises.

D. In addition, the Board of Public Works may upon complaint from any potential subscriber residing in the City order the extension of the system to such subscriber after opportunity for hearing and notice to the Franchisee. In such cases the Board of Public Works in its discretion may order such extension to any subscriber only upon reasonable contribution from the subscriber to the cost of said extension.

E. The Franchisee shall construct and operate the system so as to provide service to all parts of the City having a density of at least fifty (50) residential dwelling units per mile of system.

The company may construct and operate its system, at its option, in areas having a lesser density factor unless required to provide service by C, infra. The system shall be designed for operation twenty-four (24) hours a day and interruption of service or repairs by the Franchisee shall be made only at reasonable hours.

F. Since microwave facilities are needed to import distant signals, the Franchisee will immediately design a system, locate appropriate sites, and make application to the Federal Communications Commission for the necessary permits and shall prosecute such applications diligently and faithfully. An application for a certificate of compliance will be filed within thirty (30) days from the effective date of the granting of the franchise or as soon as feasibly possible but in no case longer than one hundred twenty (120) days from the effective date of the granting of the franchise.

G. The Franchisee will begin actual construction within one (1) year after the franchise is granted and shall accomplish significant construction within one (1) year after receiving the Federal Communications Commission certification and shall thereafter equitably and reasonably extend energized trunk cable to at least twenty (20) percent of its franchise area each succeeding year. It is also required that the head-end be completed within one year after the Federal Communications Commission grants a certificate of

compliance and appropriate building permits and zoning requirements have been approved.

V. SYSTEM DESIGN

A. (1) The cable television system to be installed by Franchisee shall comply in all respects with the capacity, capability, and technical performance requirements set forth in the FCC's Rules for Cable Television including applicable amendments thereto and including public, education, government, and leased access channels.

(2) A complete system override shall be installed at the head-end to notify subscribers of any national emergency.

B. Basic Service. The Cable Communications System permitted to be installed and operated hereunder shall:

(1) Be operationally capable of relaying television and radio broadcast signals to subscriber terminals without material degradation in quality;

(2) Distribute color television signals which can be received in color;

(3) Provide at least one (1) channel, without charge for exclusive use of the City. This channel will be dedicated for the use of the City government for an initial period of five (5) years

following the completion of the system's basic trunk line. At the end of five (5) years the channel usage will be evaluated by the Franchisee and the City government to ascertain whether to expand or curtail such free use. During the initial period this channel may be shared with other services with the understanding that the City government has first priority on its usage;

(4) Provide at least one (1) channel each for those educational and public access uses as now or hereafter required by the Federal Communications Commission for systems operating in the top one hundred markets;

(5) The above mentioned educational channel will be in addition to any educational broadcast signal carried on the Fort Wayne Cable Communications System.

C. Non-Basic Services. The cable television system permitted to be installed and operated hereunder, may also engage in the business of:

(1) Transmitting original cablecast programming not received through television broadcast signals;

(2) Transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers;

(3) Transmitting and receiving all other signals; digital, voice and audio-visual.

D. Subscriber Service, Adjustment and Complaint. In addition to other service regulations adopted by the Common Council, and excepting circumstances beyond the Franchisee's control, such as Acts of God, riots and civil disturbances, the Franchisee shall:

(1) Limit system failures to minimum time duration by establishing a maintenance service which can locate and correct major malfunctions promptly. Said maintenance service shall be available, in addition to normal business hours, to correct such major system malfunctions affecting a number of subscribers which occur from the time the Franchisee's main, local office closes until 12:30 a.m., Monday through Friday and from 8:00 a.m. until 12:30 a.m. on Saturdays, Sundays, and holidays.

(2) Maintain an office in the City, which office shall be open during usual business hours, with a listed local telephone number which shall be made available to subscribers for service calls at any time of the day or night. Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls, showing

when and what corrective action was completed. Such records shall be available to the City during normal business hours and retained in Franchisee's files for not less than three (3) years.

(3) Render efficient service, making repairs promptly and interrupting service only with good cause and for the shortest time possible. Planned interruptions, insofar as possible shall be preceded by a notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.

E. Government Channel. With respect to the local government channel, the Franchisee shall provide, at the request of the Board of Public Works and upon City reimbursement of the Franchisee's actual cost, use of Franchisee's studio, equipment and technical services for production of live and video-tape municipal programs, subject to scheduling requirements of the Franchisee;

(1) Franchisee shall provide, without charge, one outlet to each fire station, police station, public library, and public and parochial school that is passed by its cable and to such buildings as used for municipal purposes as may be designated by the City. If more than one outlet is required at any of said locations, the Franchisee shall install same at the cost of time and materials only, and in no event will there be a monthly service charge at said location. However, if it is necessary to extend Franchisee's

trunk or feeder lines more than three hundred (300) feet solely to provide service to any such school or public building, the City or school system shall have the option either of paying Franchisee's direct costs for such extension in excess of three hundred (300) feet or of releasing Franchisee from the obligation to provide service to such building.

F. Studio Facilities. Franchisee shall make its studio facilities, including cameras and other equipment, available at cost for use by the public schools for local origin-ation of programs and for closed circuit educational films, subject to reasonable rules and regulations pertaining to such use by Franchisee, and in such manner as not to unduly interfere with the cable television operations of the Franchisee. The quality of the services rendered to all users by the Franchisee under the terms of the franchise shall be as good as the state-of-the-art allows.

G. Public Access Channel. Franchisee shall provide one free, dedicated non-commercial public access channel to be available at all times on a non-discriminatory basis.

(1) The Franchisee must provide equipment to be used by access cablecasters with the aid of a technical and production staff to be provided by the operator. Included should be equipment that can store programs for later showing. In addition, a local studio must be made available to all access users on a first come, first served basis.

(2) Any applicant to operate the system will be expected to demonstrate in his application how it plans to make available the equipment, the studio, and production and technical staff.

(3) A full schedule of rates for use of equipment, studio, and technical and production staff must be submitted (see separate document entitled Applications).

H. Off the Air Programming.

(1) The Franchisee shall carry the signals of all television stations licensed to communities within thirty-five (35) miles of the City of Fort Wayne pursuant to the Rules and Regulations of the Federal Communications Commission.

(2) The Franchisee shall also transmit or distribute the full FM radio band (88 MHz to 108 MHz).

(3) The Franchisee shall carry the signals of other TV stations pursuant to the present and future regulations of the Federal Communications Commission.

I. Compatibility and Connectability. It is the desire of

the City that all Cable Communications Systems franchised hereunder shall, insofar as financially and technically possible, be compatible one with another and with systems adjacent to the City. Whenever it is financially and technically feasible, the Franchisee shall so construct, operate and modify the system so as to tie the same into all other systems within and adjacent to the City, subject to any Federal Communications Commission Rules and Regulations.

J. Innovations and Experiments. It shall be the policy of the City to encourage Franchisee to undertake a variety of approaches to the development of equipment, services, techniques, and programming. Franchisee may conduct experiments for this purpose, provided however, that such experiments or innovative equipment or techniques, services, and programming shall not be violative of any Federal Communications Commission rule, regulation, order, or other laws or regulatory measures of any government or agency.

(1) After completion of any experiment, a final report giving results and any interpretation thereof shall be filed with the Board of Public Works. The City Council understands that experiments of this type involve proprietary information and in that regard does not require the Franchisee to jeopardize the total results of the experiment or breach its confidential relationship with any other party. All that is required under the terms of this paragraph is a basic description of the experiments and the results obtained,

if not confidential.

K. Two-way Provision and Subscriber Privacy. Where two-way experiments or operation are planned, considerations must be given to the following:

(1) Monitoring. No monitoring of any terminal connected to a system shall take place without specific written authorization by the user of the terminal in question. In no event shall aural or visual monitoring of any kind take place without a clear indication to the subscriber that such monitoring is presently taking place. This may be in the form of an audible sound signal or light signal or any other form the Franchisee deems reasonable. This indication to the subscriber is not required where a terminal is merely "polled" by a digital signal as opposed to a voice or visual signal. It is the intent of this paragraph to give absolute protection against unwarranted invasion of privacy to each subscriber on the Fort Wayne Cable Communications System. At any time the Franchisee initiates a subscriber response system for use in the Fort Wayne Cable Communications System the cable operator shall make a presentation to the Board of Works to show that the system can operate effectively in a particular mode without requiring the light and/or audible sound signal and yet give absolute protection against any unwarranted invasion of privacy.

L. Underground and Overground Installation Requirements.

(1) Underground installation. In areas of the City having

telephone lines and electric utility lines underground, whether required by ordinance or not, all or any Cable Communications System permittees' lines, cables, and wires shall be underground. It shall be the policy of the City that existing poles for electric and communication purposes be utilized wherever possible, and that underground installation even when not required is preferable to the placing of additional poles.

(2) Construction standards; clearances above ground.

The Franchisee's distribution system in the public streets shall comply with all applicable laws, regulations, and ordinances and all its wires and cables suspended from poles in the streets shall comply with the minimum clearance above ground required for telephone lines, cables, wires and conduits, and shall be installed in conformance with good engineering practice.

(3) Grounding. All cable entrances into any building, whether it be industrial or residential, shall be grounded at the entrance in accordance with good engineering practices.

M. System Reliability. All reasonable system design considerations will be made such that a local, public utility power outage of limited duration in one portion of the franchised area will not affect the system's operation or service to subscribers who are not affected by the same power interruption. This requirement does not apply to the head-end, but does apply to all other portions of

the cable system.

VI. TECHNICAL PERFORMANCE STANDARDS

A. The minimum technical standards required by the City of Fort Wayne by the Franchisee shall be those set forth by the Federal Communications Commission in Part 76, Subpart K, of the Federal Communications Commission Rules and Regulations. Standards of good engineering practices established by the state-of-the-art will be followed in all cases by the Franchisee in the installation and operation of the Fort Wayne Cable Communications System. (Examples would be the National Electrical Code, NCTA's Standard of Good Engineering Practices, etc.).

B. System Testing. The Franchisee will adopt a procedure for testing the cable system including test conditions and equipment, locations and time intervals for testing and the measurement procedures for performing such tests. These procedures should be written and maintained in a file in the Franchisee's office subject to inspection by the Board of Public Works for the City of Fort Wayne or any designated representative thereof.

C. Proof of Performance. Results of system proof of performance tests should be submitted to the Board of Public Works for the City of Fort Wayne to insure the system's quality. This proof of performance test shall be performed as prescribed by the Federal Communications Commission Rules and Regulations governing cable

television and should be performed at a period not to exceed one year between tests.

VII. LOCAL REGULATORY FRAMEWORK

A. Operational Reports.

(1) Within six (6) months from the grant of this franchise, the Franchisee shall submit to the Board of Public Works an installation plan for the entire City, indicating the dates on which the Franchisee expects the installation of the Cable Communications System to be completed and available for service to subscribers in the various areas of the City.

(2) The Franchisee shall furnish the Board of Public Works with progress reports indicating in detail the area of construction of the Cable Communications System. Such periodic reports shall be furnished at six month intervals, the first report is to be made three (3) months after the construction commencement date.

(3) Following approval and grant by the Federal Communications Commission of a Certificate of Compliance and system turnon, the Franchisee will submit quarterly a summary of subscriber complaints and actions taken by the Franchisee. This report shall be submitted to the Board of Public Works.

B. Books and Records of the Franchisee.

(1) The Franchisee shall file with the Board of Public Works an accurate copy of maps and/or plats of all existing and proposed installations upon or under the streets. These maps and

plat shall conform to the requirement of the Board of Public Works and shall be kept continuously up-to-date.

(2) The Franchisee shall keep on file with the City a current list of its stockholders holding one (1%) percent or more of the outstanding stock and all officers with their current addresses. In the event of a change in this information, a report will be filed within thirty (30) days after such change.

(3) All books and records of the Franchisee concerning its operations within the City shall be made available for inspection and audit by the Controller within thirty (30) days after any request for such inspection or audit shall be made.

(4) Each Franchisee will prepare a book of rules, regulations and conditions for the conduct of his business including maintenance schedules and subscriber service and complaint procedures and a copy shall be filed with the Board of Works and City Clerk and in the local office of the Franchisee for public inspection.

C. Filing Communications with Regulatory Agencies. Copies of all petitions, applications and communications submitted by the Franchisee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting the Cable Communications System operation, shall also be submitted simultaneously to the City by filing same with the City Attorney.

D. Supervision by the City.

(1) The Franchisee shall construct, operate and maintain the Cable Communications System subject to the supervision of all of the authorities of the City who have jurisdiction in such matters and in strict compliance with all laws, ordinances and department rules and regulations.

(2) The Cable Communications System and all parts thereof shall be subject to the right of periodic inspection by the City.

(3) The Board of Public Works may from time to time issue such reasonable rules and regulations concerning the construction, operation, and maintenance of the Cable Communications System as are consistent with the provisions of this ordinance.

(4) If at any time the powers of the Common Council or any agency or official of the City are transferred by law to any other board, authority, agency or official, said transferee shall have the powers, rights and duties vested under this ordinance or by law in the Common Council or any agency or official of the City.

E. Compliance with State and Federal Law.

(1) Notwithstanding any other provision of this franchise to the contrary, the Franchisee shall at all times comply with all laws and regulations of the state and federal government or any administrative agency thereof provided, however, if any such state or federal law or regulation shall require the Franchisee to perform any service or shall prohibit the Franchisee from performing any

service or shall permit the Franchisee to perform any service in conflict with the terms of this franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, the Franchisee shall notify the Mayor or the Board of Public Works of the point of conflict believed to exist between such regulation of law and the laws or regulations of the City or this franchise.

(2) Franchisee shall be subject to all City ordinances as set forth herein and Franchisee shall also be subject to all applicable rules and regulations which, from time to time, may be promulgated by the Federal Communications Commission for Cable Communications Systems including that for CATV.

(3) If the Common Council determines that a material provision of this ordinance is affected by such subsequent action, the Common Council shall have the right to modify any of the provisions herein to such reasonable extent as then be necessary to carry out the full intent and purpose of this ordinance.

F. Preferential or Discriminatory Practices Prohibited. The Franchisee shall not as to rates, charges, service facilities, rules, regulations or any other respect make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, provided however, connection and service charges may be waived or modified during promotional campaign of the Franchisee.

G. Franchisee's Duty to Remove its Properties From the Public Streets.

(1) Following the Franchisee's commencement of service through and over the Cable Communications System, the Franchisee shall promptly remove from the public streets where its properties are located all or any part of the facilities so located when one or more of the following enumerated conditions occur:

- (a) The Franchisee ceases to operate the Cable Communications System for a continuous period of six (6) months from the date of said occurrence;
- (b) The Franchisee fails to construct said system as hereinabove and hereinafter provided; or
- (c) The franchise is terminated pursuant to notice as provided herein.

(2) Provided that the Franchisee shall be entitled to receive notices in writing from the City setting forth one or more of the occurrences hereinabove enumerated or such other occurrence hereinbefore or hereinafter provided and that the Franchisee shall have ninety (90) days from the date upon which said notice is received to remove said properties as hereinabove required.

H. Franchisee's Duty to Protect Property of City.

(1) Franchisee shall in construction, maintenance, operation, relocation, expansion, modification, or removal of any part of the system protect the property of the City and all other lawful users of the public ways.

(2) Franchisee shall at his own expense protect, support, relocate, disconnect or remove any of its equipment when ordered to do so by the City for reasons of traffic conditions, public safety, street vacation, construction, establishment, repair, alteration, or other construction, repair, alteration or establishment of or in any public ways. Upon failure of Franchisee to commence, pursue, or complete work ordered under this provision within the time prescribed and to the satisfaction of the City, the City shall cause such work to be done and Franchisee shall pay the cost thereof within thirty (30) days after receipt of itemized statement. Failure to so pay shall be treated as a breach or violation of this ordinance and franchise and the City shall have the right to terminate the franchise.

(3) Franchisee shall protect its own equipment when ordered to do so by the Mayor or the Board of Public Works.

I. Franchisee's Recourse.

(1) Except as expressly provided in this franchise, the Franchisee herein shall have no recourse whatsoever against the City for any loss, cost, or expense or damage arising out of the provisions or requirements of this franchise or because of the enforcement thereof by the City, nor for the failure of the City to have the authority to grant all or any part of this franchise.

(2) The Franchisee expressly acknowledges that upon accepting this franchise, it does so relying upon its own investigation and understanding of the power and authority of the City to grant this franchise.

(3) The Franchisee by acceptance of this franchise acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement whether verbal or written by or on behalf of the City or by any other third person concerning any term or condition of this franchise not expressed herein.

(4) The Franchisee further acknowledges by acceptance of this franchise that it has carefully read the terms and conditions hereof and is willing to do and does accept all the risks of the meaning of such terms and conditions and agrees that in any event of any ambiguity therein or in the event of any other dispute of the meaning thereof, the same shall be construed strictly against the Franchisee and in favor of the City.

J. Failure of City to Enforce this Franchise, No Waiver of the Terms Thereof. The Franchisee shall not be excused from complying with any of the terms and conditions of this franchise by any failure of the City upon any one or more occasions to insist upon or seek compliance with any such terms or conditions.

K. Franchisee Will Not Contest Validity of Franchise. The Franchisee agrees by acceptance of this franchise that it will not at any time set up against the City in any claim or proceeding any present condition or term of this franchise as unreasonable, arbitrary or void or that the City had no power or authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of this franchise in their entirety.

(1) The right is hereby reserved to the Common Council to adopt, in addition to the provision contained herein and in existing applicable ordinances such additional regulations as it shall find necessary in the exercise of police powers; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(2) The City shall have the right during the term of this franchise, to install and maintain free of charge upon the poles of the Franchisee any wire and pole fixtures necessary for a Public Safety alarm system, and to install and maintain free of charge on the headend tower antennas and ancillary equipment for the communications system, on the condition that such wires, antennas and fixtures do not interfere with the cable operations of the Franchisee.

(3) The City shall have the right to perform customary inspections of construction or installation work performed pursuant to the provisions of this ordinance and make such routine inspections as it shall find necessary to insure compliance with the terms of this ordinance and other pertinent provisions of law. Franchisee shall pay all reasonable fees for such inspection by City inspectors during construction.

(4) After the expiration of the term for which the

franchise is granted, or after its termination, as provided for herein, the City shall have the right to determine whether the Franchisee shall continue to operate and maintain the Cable Communications System pending the decision of the City as to the future maintenance and operation of such system.

L. Acceptance. This ordinance and its terms and provisions shall be accepted by the Franchisee by written instrument executed and acknowledged by it in the same way as a deed and is required to be filed with the City Attorney within twenty (20) days after the granting of the franchise. Such written instrument shall state and express acceptance of this ordinance and its terms, conditions and provisions and said Franchisee shall agree in said instrument to abide by, observe and perform same, and declare that statements and recitals herein are correct and that it has made and does make the agreement, statements and admissions required under said ordinance.

M. Time Essence of This Agreement. Whenever this franchise shall set forth any time for any act to be performed by or on behalf of the Franchisee, such time shall be deemed of the essence and the failure of the Franchisee to perform within the time allotted shall always be sufficient grounds for the City to revoke this franchise.

N. Surety Bond.

(1) Franchisee shall maintain, and by its acceptance of this franchise specifically agree that it will maintain throughout the term of this franchise, a faithful performance bond running to the City, with a good and sufficient surety approved by the City in the penal sum of One Hundred Thousand (\$100,000) Dollars conditioned that the Franchisee shall well and truly observe, fulfill and perform each term and condition of this franchise and that in case of any breach, the City shall be entitled to recover from the principal and sureties thereof the amount of all damages including all cost and attorneys fees incurred by the City, proximately resulting from the failure of the Franchisee to well and faithfully observe and perform any and all of the provisions of this franchise.

(2) The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to thirty (30) days after written notice to that effect is given to the City and the Franchisee herein.

(3) The bond shall be in a form satisfactory to the City Attorney and a duplicate copy of it, along with written evidence of payment of the required premium shall be filed with the Board of Public Works during the term of this franchise.

O. Insurance. At all times during the term of this franchise, Franchisee shall obtain, pay all premiums for and file with the Board

of Public Works a certificate of insurance or other proof evidencing the payment of premiums for the following:

(1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents, and employees, from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the Franchisee under franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$500,000 per, for bodily injury or death to any one person and \$1,000,000 for bodily injury or death of any two or more persons in any one occurrence.

(2) Property damage insurance indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of Franchisee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$250,000 for property damage to any one person and \$500,000 for property damage to two or more persons in any one occurrence.

(3) All of the foregoing insurance contracts shall be in form satisfactory to the City Attorney and shall be issued and maintained by companies authorized to do business in the State of

Indiana and acceptable to the Board of Public Works and they shall require thirty (30) days written notice of any cancellation to both the City and the Franchisee herein.

P. Indemnity. Franchisee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the City, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgment for injuries or damages (including but not limited to the expenses for reasonable legal fees and disbursements and liabilities assumed by the City in connection therewith).

(1) To persons or property, in any way arising out of or through the acts or omissions of Franchisee, its servants, agents, or employees or to which Franchisee's negligence shall in any way contribute;

(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm, or corporation, or the violation or infringement by Franchisee of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation (excluding claims arising out of or relating to City programming); and

(3) Arising out of the Franchisee's failure to comply with the provisions of any Federal, State, or local statute, ordinance or regulation applicable to the Franchisee in its business hereunder.

(4) The foregoing indemnity is conditioned upon the following:

The City shall give the Franchisee prompt notice of the making of any claim or the commencement of any action or suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the City from cooperating with the Franchisee and participating in the defense of any litigation by its own Council at its own cost and expense. No recovery by the City of any sum by reason of the bond required in this ordinance shall be any limitation upon the liability of the Franchisee to the City under the terms of this ordinance, except that any sum so received by the City shall be deducted from any recovery which the City shall establish against the Franchisee under the terms of this ordinance.

Q. Arbitration. Franchisee shall be required to submit any matters in controversy or dispute with the City under this franchise to arbitration in all cases where the judgment of a court of law would be sought. Such matters shall be determined and settled by a panel of three (3) persons sitting as arbitrators, one person selected by the Franchisee, one person appointed by the Board of Public Works and the third person selected by the two already selected. The fees of the arbitrators shall be fixed by City Council and expenses of the arbitration shall be borne by the parties as arbitrators shall determine. The decision of the arbitrators shall be reduced to judgment as provided by Indiana Statutes.

R. Day-to-Day Regulation. The City does hereby designate the Board of Public Works to exercise the City's continuing regulatory and supervisory jurisdiction over the franchise, and in this regard

the Board of Public Works, subject to the right of the Common Council to terminate such responsibilities in accordance with I.C. 18-1-6-14 thru 18-1-6-19 at any time upon notice to the Board of Public Works, shall have the following responsibilities and duties and such other responsibilities and duties that the Mayor or Common Council may assign and delegate to it:

(1) In cases where a franchisee does not make a reasonable effort to satisfy a customer complaint or where there is a finding that service failures or poor service, inferior audio or video signals result from Franchisee's system operation, the Board of Public Works shall have the power to:

- (a) Require the Franchisee to adjust billing charges for service deficiencies in whole or in part, based upon the Board of Public Work's evaluation of the deficiencies and the equity involved.
- (b) Require the Franchisee to make reasonable refunds.
- (c) Notwithstanding the fact that the network may be in compliance with all the standards set forth herein, the Board of Public Works may require a higher level of performance in any area to resolve signal quality or interference problems.

(2) In cases where requests for service have been ignored or unfilled for whatever reason, the Board of Public Works shall have the power to require the Franchisee to provide service in response to all reasonable requests as the Board of Public Works may determine based upon its determination of the intent of this ordinance.

S. Regulation of Auxiliary Services. The Franchisee must notify the Board of Works upon the establishment of a discreet service that will not be available to all subscribers. All notifications shall demonstrate that the service is in the public interest and will not affect the system's ability to deliver services to other users and

subscribers. In the event this section is in conflict with any Federal Communications Commission rule, regulation or decision, that rule, regulation, or decision will control.

VIII. RATES AND FRANCHISE PAYMENTS

A. In consideration of the granting and exercise of a franchise to use the streets, as herein defined, for the operation of a Cable Communications System, any Franchisee shall pay to the City, during the life of the franchise the following:

(1) Three percent of its gross annual subscriber revenue;

(2) Three percent of its gross annual receipts which are not included under Paragraph 1, above. This percentage will be in accordance with Federal Communications Commission Rules and Regulations and will take effect at such a time as the Federal Communications Commission Rules so allow.

B. The percentage payment shall be made in the manner, amounts and at times directed in said franchise or in a City Council resolution fixing franchise fees and adopting rules for service and regulations.

C. The City shall have the right to inspect the Franchisee's revenue records under the franchise and the right of audit and recomputation of any and all amounts payable under this ordinance; the cost of said audit shall be borne by the Franchisee when the same results in increasing by more than two percent the Franchisee's annual payment to the City.

D. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this ordinance or for the performance of any other obligation hereunder.

E. By its acceptance of this franchise, the Franchisee agrees that the Common Council shall have the power, authority and right, after a public hearing, to cause the Franchisee's rates and charges to conform to provisions hereof and for this purpose, the Council may deny increases or order reductions of such rates and charges when it determines that in the absence of such action on its part, the Franchisee's rates and charges or proposed rates and charges will not conform to the provisions contained herein.

F. The rates and charges for television signals distributed hereunder shall be fair, reasonable and non-discriminatory. The Franchisee shall be allowed to increase its rates if it can demonstrate to the Common Council's satisfaction that they cannot make a fair return on their investment without a rate increase.

G. Unless and until otherwise changed by the Common Council, the rates for basic subscriber services hereunder shall be those listed in the application for the franchise.

(1) Rates for all other services to be provided over the Cable Communications System by the Franchisee will be subject to the approval of the Board of Works and Common Council at such time as the Federal Communications Commission Rules and Regulations so permit.

H. No charge shall be made to the City for its use of City channel.

I. A copy of any form or any agreement, undertaking or other instrument proposed to be entered into between the Franchisee and any subscriber shall be submitted first to the City Attorney for his approval.

J. The procedure for review by Common Council of a subscriber or Franchisee request for a change of rate shall be as follows: the Council shall within ten (10) days of such request give notice to the general public between the hours of 7:00 and 9:00 p.m. for five consecutive days on the channels of the cable system for which a rate filing has been made. Written comments may be filed by any interested parties within thirty (30) days from the final date of the notice. A reply to the comments may be filed within fifteen (15) days.

K. The Common Council may at any time increase or decrease any rate, require discontinuance of any scheduled service, or revise or delete any item or condition applicable thereto upon a determination, made after a public hearing following notice to the Franchisee, that a particular rate, service or term or condition explicitly or implicitly violates this contract. Any such deletion or revision by the City shall be in accordance with Federal Communications Commission Rules and Regulations.

IX. EMPLOYMENT REQUIREMENTS

A. The Franchisee must establish an affirmative plan to employ qualified minorities and women in accordance with Federal Communications Commission and Federal regulations. This plan must be filed with the City Attorney and show an equal opportunity program.

B. Equal opportunity in employment shall be afforded by the Franchisee to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

X. MISCELLANEOUS PROVISIONS

A. Removal of Facilities Upon Request. Upon termination of service to any subscriber, the Franchisee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon written request. Such removal shall be at no cost to the subscriber.

B. User permitted. Any franchise granted pursuant to the provisions of this ordinance shall authorize and permit Franchisee to engage in the business of operating a Cable Communications System in the City, and for that purpose to erect, install, and construct, repair, replace, re-construct, maintain and retain in, on, over, under, upon, across and along any street, such pole,

wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, and appliances, attachments, and other property as may be necessary and appurtenant to the Cable Communications System; in addition, to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other Franchisee franchised or permitted to do business in the City.

C. A franchise, easement, license or other permit granted to anyone other than the Franchisee to traverse any portion of the City in order to provide service outside the City shall not authorize nor permit said person to solicit, sell, or distribute, or make any charge to subscribers within the City, nor to render any service or connect any subscriber within the City to the Cable Communications System or Franchisee.

D. Franchisee Shall Be Prohibited From Directly or Indirectly Doing Any of the Following:

(1) Engaging in the business of selling at retail, leasing, or rent, repairing or servicing of television sets or radios;

(2) Imposing a fee or charge for any service or repairs to subscriber-owned receiving devices except for the connection of its service or for the determination by Franchisee of the quality of its signal to the recipients thereof;

(3) Soliciting, referring, or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by the Franchisee.

(4) Providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose.

E. When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk.

F. No person, firm or corporation within the service area of the Franchisee, and where trunk lines are in place, shall be refused service, provided, however, that the Franchisee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charge.

G. Where the Franchisee engages salesmen to solicit for subscribers on a door-to-door basis it will be a requirement under terms of this franchise that such salesmen be properly identified by a badge to be worn on the outside clothing, fully visible by a resident, issued by the City for identification of this employee. Further, it shall be a requirement that the Franchisee properly register such salesmen with the Director of Public Safety including the name of the salesman, his residence

address and any other information the Director of Public Safety may deem necessary for the public welfare.

H. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by a decision of any court of competent jurisdiction or the Federal Communications Commission, such decision shall not affect the validity of the remaining portions hereof. The Common Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this ordinance shall not abate, reduce or otherwise affect any consideration or any other obligation required herein. In its consideration of this ordinance as part of the application by the Franchisee for a certificate of compliance, should the Federal Communications Commission consider any portion hereof contra to any of its Rules or Regulations and that portion which is considered contra shall be deemed invalid such invalidation will not affect any other portion of this ordinance.

XI. APPLICANT SELECTION PROCESS

A. Restrictions on Applicants. Applicants are required to meet all obligations and specifications as set out in this ordinance at the time of filing of their application, and in addition are required to meet the following restrictions before their applications will be considered or accepted:

(1) Applicants and Franchisee shall be bound in all matters in controversy to be subject to Indiana law.

(2) Franchisee shall as reasonably and equitably as possible allow for participation by minority groups in ownership and control.

(3) Applicants shall fully disclose all agreements and understandings whether written or oral or implied with any person, firm, group or corporation, with respect to this franchise and its proposed operation prior to granting by the Board of Works and approval of the Common Council. Further the successful Franchisee shall disclose all other contracts to the Common Council when made, if so requested by the Common Council. This paragraph shall include but not be limited to, any agreement that local applicants may have with national companies.

(4) All applicants seeking the franchise for the

City of Fort Wayne shall submit applications as provided by the terms of the application document which is hereby incorporated by reference to be made part of this ordinance. The requested information therein must be complete and verified by an officer of the corporation or if an individual, by that individual.

(5) The City reserves the right to amend or supplement the selection criteria at any time prior to the time fixed for opening of applications. Such amendments, supplements, bulletins or addenda will be distributed to all applicants who have ordered copies of this ordinance.

B. Public Hearings on Applications. Common Council shall after the last day fixed for receipt of the applications cause to be published in the local newspapers of general circulation a notice of public hearings giving the times, date, places of said hearings, and listing the names of the applicants and inviting public examination of the applicant and applications, and inviting testimony on the qualifications of said applicants.

(1) Copies of the applications received by the City will be in the office of the Board of Public Works and City Clerk's office at the City-County Building, available for public inspection during normal business hours.

(2) Public hearings shall be conducted in accordance with standards of due process in fairness to applicants and the public,

and in accordance with the Federal Communications Commission Rules and Regulations and orders and policies pertinent to such hearings. Each applicant will be notified of the time and location for his application to be considered.

(3) These hearings shall be recorded and transcribed and supplied to the successful applicant. Copies will be made available to others upon request at cost.

(4) The exact procedure to be followed at each hearing will be provided to the applicant at least ten (10) days prior to his appearance.

C. Method of Selection. Each Councilman and each member of the Board of Works shall be supplied with a copy of each application certified to the Council by the City Attorney at least five (5) days before any public hearings, along with a list of the criteria to be used in evaluating the applicant. The criteria shall be as follows:

(1) Financial stability of the Applicant. 20 Points

Demonstrated financial resources and commitments that will insure prompt installation of the proposed system; records of successful business management.

(2) System Capability. 20 Points

Total channels provided; proposed Utilization of channels; quality of equipment proposed; proposed construction time table; two-way capability; future expansion.

- (3) Character and Fitness of Applicant,
its Officers, Executives, and Owners. 20 Points
- Any criminal record; outstanding charges
or warrants; previous bankruptcy pro-
cedures.
- (4) CATV Experience. 20 Points
- Ownership and operation of other systems;
demonstrated experience of employees or
subcontractors to be involved in plan-
ning, engineering and construction.
- (5) System Operation. 20 Points
- Facilities and personnel allocated;
procedures for maintenance and subscriber
service and complaints; charges for
services and use of facilities; ascer-
tainment of community needs and proposed
solutions.
- (6) Additional Recommendations Proposed
by Applicant. 20 Points

The above criteria will be used to grade each application by the Common Council and the Board of Works. Provided, however, that if a majority of the Council believe that a particular application is seriously deficient in any of the first five (5) criterion, that application may be dropped from final consideration.

The Common Council and the Board of Works shall evaluate each applicant and the Franchise shall be granted by the Board of Works subject to the approval of the Common Council.

XII. CABLE TELEVISION PROGRAM
ADVISORY COUNCIL ESTABLISHED

A. Establishment of Cable Television Program Advisory Council. There is established a Cable Television Program Advisory Council consisting of nine (9) persons with two (2) members each representing the public, educational and governmental users and two (2) persons chosen at large to be representative of the community. Four (4) to be appointed by the Mayor; four (4) by Common Council with the President as the ninth (9th) member. The first appointments shall be four (4) for a one (1) year term; four (4) for a two (2) year term; and thereafter all appointments shall be for two (2) year terms. It is recommended that four (4) initial appointments be representative of the four categories described - three (3) from the users and one (1) person at large.

At least two (2) weeks before any persons are appointed to the Cable Television Program Advisory Council, written applications from interested persons who are willing and able to serve on said Advisory Council shall be requested. Such applications shall clearly indicate the category that a person would be representing. In making appointments to said Advisory Council, the Mayor and Common Council shall consider the applications submitted by persons as well as such other persons as may come to the attention of the Mayor and Common Council as being qualified.

B. Advisory Council Duties. The Cable Television Program Advisory Council shall perform the following functions:

(1) To make recommendations to the Franchisee of the Cable Communications System and to the educational and governmental users of the educational and governmental access channels.

(2) To report methods that the Franchisee can make the public access channel available to all residents of the City on a non-discriminatory basis.

(3) To recommend and receive assurances that the operation of the public access channel be free of program censorship and control.

(4) To perform such other duties and functions relative to the public access channel as may be appropriate for the Advisory Council.

(5) To make recommendations to the Franchisee on the procedural aspects of the public access channel.

C. Advisory Council Rules and Procedures. The Advisory Council shall have the authority to submit proposed rules and regulations for the conduct of its business to the Mayor and City ^{→ Community} Council for approval, and upon approval, shall have the right to hold hearings and make recommendations to the Franchisee of the Cable Communications System and to the educational and governmental communities on the coordination of the educational and government access channels. All such actions shall only be advisory.

XIII. EFFECTIVE DATE OF FRANCHISE

The franchise hereby granted shall not become effective unless and until Franchisee files written acceptance thereof and agreement to be bound by and comply with all of the requirements thereof, and delivers to the City the bond and insurance policies required to be furnished all pursuant to provisions of this ordinance.

XIV. APPLICATIONS

(This chapter, a separate document, is hereby incorporated by reference.)



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

room 122

charles w. westerman, clerk

April 29, 1977

Ms. Virginia Grace
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Grace:

Please give the attached full coverage on the dates of May 2, 1977 and May 9, 1977, in both the News Sentinel and Journal Gazette.

RE: Bill No. G-77-04-27
Pertaining to animals

Bill No. G-77-04-19
Pertaining to Cable T.V.

Please send us five (5) copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

Charles W. Westerman
City Clerk

CWM/ne
ENCL: 2



NOTICE OF PUBLIC HEARING

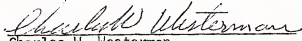
Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 18th day of May, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 being a proposed General Ordinance providing for the establishment of a Cable Communications System in the City of Fort Wayne.

Copies of said Bill No. G-77-04-19 are posted in the following public places in Fort Wayne, Allen County, Indiana.

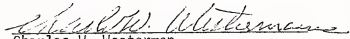
- (a) The main floor lobby of the City-County Building
- (b) The bulletin board in the lobby at the east door of the Allen County Court House
- (c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana.

- (a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library
- (b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana


Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and posted the above proposed Ordinance in the designated places as stated above on May 2, 1977


Charles W. Westerman
City Clerk

Common Council of Fort Wayne
(Governmental Unit)

To THE NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines _____

Head number of lines _____ 1

Body number of lines _____ 42

Tail number of lines _____ 3

Total number of lines in notice _____ 46

COMPUTATION OF CHARGES

46 lines, 1 columns wide equals 46 equivalent lines at .259¢ cents per line \$ 11.91

Additional charge for notices containing rule or tabular work (50 per cent of above amount) _____

Charge for extra proofs of publication (50 cents for each proof in excess of two) _____

TOTAL AMOUNT OF CLAIM

\$ 13.42

DATA FOR COMPUTING COST

Width of single column 9.9 ems Size of type 5 1/2 point

Number of insertions 2 Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date May 9, 1977

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s., the dates of publication being as follows:

5/2-9/77

Subscribed and sworn to before me this 9th day of May 1977

Notary Public

My commission expires September 28, 1979

NOTICE OF PUBLIC HEARING
Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 125, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 18th day of May, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 being a proposed General Ordinance providing for the establishment of a Cable Communications System in the City of Fort Wayne.

Copies of said Bill No. G-77-04-19 are posted in the following public places in Fort Wayne, Allen County, Indiana:

(a) The main floor lobby of the City-County Building

(b) The bulletin board in the lobby at the east door of the Allen County Court House

(c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana:

(a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library

(b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana

Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and posted the above proposed Ordinance in the designated places as stated above on May 2, 1977.

Charles W. Westerman
City Clerk

5-29

Common Council of Fort Wayne
(Governmental Unit)

To: JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

1

42

3

46

COMPUTATION OF CHARGES

46 lines, 1 columns wide equals 46 equivalent lines at \$259.4 cents per line

\$ 11.91

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

1.50

Charge for extra proofs of publication (50 cents for each proof in excess of two)

1.50

TOTAL AMOUNT OF CLAIM

\$ 13.42

DATA FOR COMPUTING COST

Width of single column 9.9 M ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date May 9, 1977

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 8, the dates of publication being as follows:

5/2-9/77

Subscribed and sworn to before me this 9th day of May 1977

Notary Public

My commission expires September 28, 1979

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 18th day of May, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 being a proposed Ordinance providing for the establishment of a Communications System in the City of Fort Wayne.

Copies of said Bill No. G-77-04-19 are posted in the following public places in Fort Wayne, Allen County, Indiana.

(a) The main floor lobby of the City-County Building.

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(a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library.

(b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana.

Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and posted the above proposed Ordinance in the designated places as stated above on May 2, 1977.

Charles W. Westerman
City Clerk



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

room 122

charles w. westerman, clerk

July 8, 1977

Ms. Virginia Grace
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Grace:

Please give the attached full coverage on the dates of July 12 and July 19, 1977, in both the News Sentinel and Journal Gazette.

Notice of Public Hearing

Bill No. G-77-04-19
(Proposed Amendments)
Cable T. V. Ordinance

Please send us five (5) copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

Charles W. Westerman
Charles W. Westerman
City Clerk

CWW/ne
ENC: 1

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Monday, the 25th day of July, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 (Proposed Amendments) being a proposed General Ordinance providing for the establishment of a Cable Communications System in the City of Fort Wayne.

Copies of said Bill No. G-77-04-19 (Proposed Amendments) are posted in the following public places in Fort Wayne, Allen County, Indiana.

- (a) The main floor lobby of the City-County Building
- (b) The bulletin board in the lobby at the east door of the Allen County Court House
- (c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana

- (a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library
- (b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana



Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and posted the above proposed Ordinance in the designated places as stated above on July 12, 1977



Charles W. Westerman
City Clerk

Common Council of Fort Wayne
(Governmental Unit)

To THE NEWS-SENTINEL

Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

48 lines, 1 columns wide equals 48 equivalent lines at .259¢
cents per line

\$ 12.43

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

\$ 14.93

DATA FOR COMPUTING COST

Width of single column 12 ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date July 19, 1977

Title CLERK

NOTICE OF PUBLIC HEARING
Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Monday, the 25th day of July, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 (Proposed Amendments) being a proposed General Ordinance providing for the establishment of a Cable Communications System in the City of Fort Wayne.

Copies of said Bill No. G-77-04-19 (Proposed Amendments) are posted in the following public places in Fort Wayne, Allen County, Indiana:

(a) The main floor lobby of the City-County Building.

(b) The bulletin board in the lobby at the east door of the Allen County Court House.

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(a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library.

(b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana.

Charles W. Westerman
City Clerk

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, fulfilled and posted the above proposed Ordinance in the designated places as stated above on July 12, 1977.

Charles W. Westerman City Clerk

COPY OF
EMENT HERE

PUBLISHER'S AFFIDAVIT

State of Indiana } ss:
Allen County }

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time S., the dates of publication being as follows:

7/12-19/77

Subscribed and sworn to before me this 20th day of July 1977

Notary Public

My commission expires September 28, 1979

Common Council of Fort Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

48 lines, 1 columns wide equals 48 equivalent lines at 25¢ cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

DATA FOR COMPUTING COST

Width of single column 3.9 ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date July 19, 1977

Title Clerk

NOTICE OF PUBLIC HEARING
Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 122, in the City-County Building, Fort Wayne, Indiana, on Monday, the 25th day of July, 1977, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-77-04-19 (Proposed Amendments) being a proposed General Ordinance providing for the establishment of a Cable Communications System in the City of Fort Wayne.

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(a) The main floor lobby of the City-County Building

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Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana:

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Charles W. Westerman
City Clerk

7-12-19

Form #904

PUBLISHER'S AFFIDAVIT

State of Indiana
Allen County ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK

JOURNAL-GAZETTE
a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 8, the dates of publication being as follows:

7/12-19/77

Subscribed and sworn to before me this 19th day of July 1977

My commission expires September 28, 1979

Notary Public